

REPORT OF PROCEEDINGS BEFORE

GENERAL PURPOSE STANDING COMMITTEE No. 4

INQUIRY INTO DESIGNER OUTLETS CENTRE, LIVERPOOL

At Sydney on Monday 11 October 2004

The Committee met at 11.00 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. Oldfield

The Hon. P. T. Primrose

The Hon. J. F. Ryan

The Hon. H. S. Tsang

CHAIR: I welcome you to the eleventh public hearing of the General Purpose Standing Committee No. 4 inquiry into the approval process for the designer outlets centre on Orange Grove Road, Liverpool. During earlier hearings I made extensive comments on a number of procedural issues. I will make reference to these statements when the need arises during today's hearing.

The protection afforded to Committee witnesses under parliamentary privilege should not be abused during these hearings, and I remind witnesses to ensure that the matters raised are directly relevant to the terms of reference.

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, 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.

JOHN GILBERT BROGDEN, Leader of the Opposition, New South Wales Parliament, before the Committee:

CHAIR: Are you appearing before the Committee in that capacity at the invitation of the Committee?

Mr JOHN BROGDEN: Yes.

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

Mr JOHN BROGDEN: Yes.

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, please indicate that fact and the Committee will consider your request. Would you like to commence with a short statement?

Mr JOHN BROGDEN: It is my pleasure to appear before the Committee today in response to your invitation. Bob Carr has arrogantly refused to appear before this Committee. Like Diane Beamer, Craig Knowles and Joe Tripodi, the Labor Party has refused to front this Committee and answer questions about its involvement in the Orange Grove scandal. Orange Grove is a good, old-fashioned New South Wales Labor corruption scandal. Bob Carr has taken New South Wales back to the bad old days of Labor's abuse of power for its political mates. This fish stinks from the head to the tail.

The stench of corruption surrounding Orange Grove extends from the Labor Party in Liverpool all the way to the Premier's office and Bob Carr himself. It extends from Labor party branches in Liverpool to Labor councillors in Liverpool, to Joe Tripodi, Diane Beamer and Craig Knowles, right up to Bob Carr himself. This is a scandal with victims: real people—450 of them—who have lost their jobs, and real businesses—60 of them—that have collectively lost millions of dollars, all because Bob Carr favoured Westfield over the workers. If Bob Carr had nothing to hide he would appear before this Committee and answer questions about his involvement in this scandal.

The same applies to Beamer, Knowles and Tripodi. They might be able to hide from this Committee, but they cannot hide from the ICAC. If Bob Carr cared about jobs, small business and people's livelihoods he would not be hiding. He would be here telling the people of New South Wales why he and his Government ignored the advice of Gabrielle Kibble, the Labor-appointed administrator of Liverpool council and a former director of planning in New South Wales, to rezone the land. And why he and his Government ignored the advice of their expert planners within the Department of Infrastructure, Planning and Natural Resources [DIPNR] to rezone the land.

Why is it that right up until Westfield lobbied Bob Carr through his Chief of Staff every piece of professional planning advice within government recommended that the land at Orange Grove be rezoned? And why is it that after a meeting between Westfield and the Government, the Government rejected that advice and refused the rezoning? Bob Carr says that the Orange Grove development was illegal. If it was illegal, why did his own planning Minister, Craig Knowles, open it?

Mark Ryan of Westfield said that the assistant planning Minister, Diane Beamer, was encircled by corrupt influences. But he referred nothing to the ICAC—not a thing. Because to make his case he would have been forced to refer Joe Tripodi to the ICAC. As a former chief of staff to John Cain and press secretary to Paul Keating, there was no way that Mr Ryan was going to damage the Labor Party.

This Committee has established a number of facts. On 13 April 2004 Gabrielle Kibble, an expert planner and administrator of Liverpool council, not only recommended the Orange Grove rezoning but stated here that she regards it as having social and economic benefits to Liverpool. The expert planners in DIPNR recommended the rezoning on the same grounds. DIPNR went so far as to prepare a media release announcing the rezoning on 7 June. On 19 April Westfield's Mark Ryan lobbied Bob Carr through his Chief of staff, Graeme Wedderburn. A series of meetings took place at the ministerial level between Carr, Beamer, Knowles and/or their staff. DIPNR's Director-General, Jennifer Westacott, wrote a memorandum to Diane Beamer recommending that the land not be rezoned on 8 July.

This Committee has also established a close relationship between many of the figures involved in this scandal. Sam Bargshoon is a confessed Labor branch stacker and close personal friend of Joe Tripodi—so close that he arranged for Nabil Gazal's luxury motor cruiser to be used by Joe Tripodi, at no cost, for Mr Tripodi's brother's bucks night. Frank Mosca, the Orange Grove architect and leading advocate, is a close friend of Craig Knowles, president of Mr Knowles' Austral branch of the ALP and Mr Knowles' architect. Tony Bueck, sacked Liverpool councillor and leading advocate for Orange Grove, is an employee of Labor Party head office and of the commerce Minister, John Della Bosca. Bob Carr and Frank Lowy are friends, and Mr Lowy's Westfield Corporation has been and is a major donor to the New South Wales ALP.

The Committee's evidence has exposed stunning discrepancies in evidence offered surrounding Westfield's lobbying and Bob Carr's subsequent meetings. Westfield claims that it warned the Government of a web of corrupt entrance surrounding Diane Beamer but made no reference to the ICAC. Graeme Wedderburn was so concerned about this web of corrupt influences that he raised the matter personally with Bob Carr. But neither Mr Carr nor Graeme Wedderburn referred any matters relating to these allegations to the ICAC. Graeme Wedderburn said that Bob Carr told him to advise Diane Beamer to "stick to the rules". Graeme Weatherburn called a meeting of Diane Beamer, her Chief of Staff Michael Meagher, and Craig Knowles' deputy Chief of Staff Emillio Ferrer, where Mr Weatherburn states he told all concerned to stick to the rules. Diane Beamer has stated publicly that Graeme Wedderburn "never gave that directive to me".

Michael Meagher says that Graeme Weatherburn used that phrase but no directive was given. To top it off, Emillio Ferrer stated that he could not remember exactly what was said in the meeting. There are only three conclusions that can be made from these meetings. First, Bob Carr thinks that Diane Beamer is so incompetent that she needs to be told how to do her job, in which case she should be sacked. Secondly, Bob Carr thinks that Diane Beamer is so susceptible to corruption and needed to be told to stick to the rules, in which case Ms Beamer and Mr Tripodi should be sacked. Or, thirdly—and based on the weight of all the evidence and public statements—Joe Tripodi is telling the truth and Frank Lowy did ask Bob Carr to stop the rezoning of Orange Grove, and that message was delivered by Mark Ryan to Graeme Weatherburn, who confirmed it with the Premier and sent the instruction down the line, in which case Bob Carr should resign.

I should advise the Committee that Westfield's displeasure with my stance on Orange Grove will have its sequel in the Australian Capital Territory Supreme Court. Westfield has commenced defamation proceedings against me in the Australian Capital Territory for comments I made about its involvement in the Orange Grove scandal. On 27 August Westfield issued a statement indicating that it would not pursue legal action against me. However, six days later Westfield changed its position and publicly threatened to pursue legal action unless I withdrew my statement. I will vigorously defend the action. I will be vigorously contesting this action. I want to make it clear to Westfield and Bob Carr that I will not back down. What is at stake here is the democratic process and the responsibility of publicly elected officials to debate issues freely, openly and without fear of legal intimidation.

My guarantee to the people of New South Wales—workers and business owners alike—is that I will not be silent or silenced, and I will continue to fight until Bob Carr, Diane Beamer, Craig Knowles, Joe Tripodi and their bureaucratic cronies are brought to account over this scandal. I am happy to answer any relevant questions the Committee has, but I wish to advise the Committee that last month at the request of the ICAC I provided a statement to the commission. My statement related to my knowledge of issues relating to this growing corruption scandal. As a consequence, prior to appearing today I sought advice from the ICAC in respect of my evidence here and the evidence I have given to the commission. The ICAC has advised me that it does not regard any relevant evidence I may give here today would hamper its ongoing investigation.

I congratulate the Committee on its fearless pursuit of this scandal. Given the severity of the difficulties now confronting the workers and businesses at Orange Grove, Bob Carr, Diane Beamer, Craig Knowles and Joe Tripodi have a moral obligation to step forward and give a full and frank account of their involvement. They are arrogant enough to think that they can hide from this Committee and refuse to answer questions, but they cannot hide from the ICAC.

The Hon. JAN BURNSWOODS: Mr Brogden, you made a speech to the Property Council earlier this year in which you said that you supported centres policy. Why then do you not support centres policy in the case of Mr Gazal's illegal shopping centre?

Mr JOHN BROGDEN: Madam Chairman, firstly I stated here—

The Hon. JAN BURNSWOODS: Madam Chair, I think would be better—

Mr JOHN BROGDEN: I am sorry. Madam Chair, firstly, if it were an illegal development I ask again "Why did Craig Knowles open it?" Secondly, with reference to the member's question, it is a question which flows—it has obviously been written for her by the Premier's Office because it flows from many of the statements that have been made by Mr Carr in Parliament with relation to this matter.

The Hon. JAN BURNSWOODS: Point of order: I am offended by that gratuitous remark by the witness. I ask that you ask him to withdraw any implications or statements as to the work I do on this Committee and my preparation for it.

The Hon. DAVID OLDFIELD: To the point of order: I find it absolutely inconceivable that the Hon. Jan Burnswoods would think that anybody other than the Premier's Office wrote her questions. We can be certain she did not. There is no point of order, in fact.

CHAIR: Yes, there is no point of order.

The Hon. JAN BURNSWOODS: I actually asked you to ask the witness to withdraw a remark he made about me. Mr Oldfield may have an opinion of his own, and he is entitled to express it in his usual way.

The Hon. DAVID OLDFIELD: I certainly do not have your opinion—

The Hon. JAN BURNSWOODS: But I as a committee member find the remark made by this witness offensive. I know he is very excited, and he is looking directly at Barry O'Farrell and there is a bit of stress around him. I ask you, as the Chair of the Committee, to ensure that this witness, like others—we have had this debate before—does not sit here and insult Committee members.

The Hon. JOHN RYAN: Point of order: I am surprised that the Hon. Jan Burnswoods finds offensive any suggestion that the Premier's Office would have assisted her. I would have thought that would have been to her credit. Members may only draw attention to matters that are actually offensive. I would not have thought a Labor Party member would be offended by the suggestion that she had been given assistance by the Premier. There is no point of order.

The Hon. JAN BURNSWOODS: As you know perfectly well, that was not the point I made and that was not the complaint I made.

The Hon. DAVID OLDFIELD: May I?

The Hon. JAN BURNSWOODS: No, you do not have the right. The Chair does not actually keep very good order here. You cannot enter this debate.

CHAIR: Order!

The Hon. DAVID OLDFIELD: Further to the point of order: I am actually—

Mr JOHN BROGDEN: You have been waiting weeks for me to turn up and this is the best I get?

The Hon. DAVID OLDFIELD: I am starting to see a bit of Jan Burnswoods' side of this because I can understand, given the implication of the Premier's corrupt conduct with regard to these matters, that she is ashamed of where the questions came from.

The Hon. AMANDA FAZIO: Further to the point of order: The issue that the Hon. Jan Burnswoods has raised was the fact that she took offence at comments made by the Leader of the Opposition, and she has asked for those to be withdrawn.

The Hon. JOHN RYAN: There is nothing offensive.

The Hon. AMANDA FAZIO: While the Hon. David Oldfield might be doing his best to suck up to the Liberal Party on the basis of One Nation's vote having collapsed on the weekend, his contributions are, in fact, irrelevant to the point of order that has been raised. The issue is a matter of taking offence at a comment and asking for it to be withdrawn.

The Hon. JOHN RYAN: I do not think they were the only votes that collapsed at the weekend.

The Hon. DAVID OLDFIELD: It was not my One Nation anyway.

The Hon. AMANDA FAZIO: I think that is the issue that you should be turning your attention to.

CHAIR: Mr Brogden, I am sure that you will not be offensive. You have come here to answer questions—

Mr JOHN BROGDEN: I have.

CHAIR: And it would be terrific if Government members could get on with asking questions.

The Hon. JAN BURNSWOODS: That is your ruling, is it?

CHAIR: It is.

The Hon. JAN BURNSWOODS: In that case I will again ask the witness to explain why, having said to the Property Council, amongst others, that he supports centres policy, why he does not support the centres policy in the case of Mr Gazal's illegal shopping centre?

Mr JOHN BROGDEN: The member was not present at that lunch, as I understand, so she is going off reports of that lunch. It was a question asked to me at the conclusion of the speech to the Property Council's monthly lunch in Sydney. The question related to the growth centres policy which more specifically was with respect to matters relating to transport hubs and higher development in transport hub areas. It was not a question relating to the shopping centre's policy, and the SEPP that relates to that.

The Hon. JAN BURNSWOODS: Mr Brogden, are you saying then that you do not support centres policy?

Mr JOHN BROGDEN: What I have made clear—indeed, there was an article in the *Australian Financial Review* about four or five weeks ago that indicates that it is my view, and the view of the Liberal-Nationals Coalition in New South Wales that there is clearly a demand for shopping centre and factory-style outlets, and that that demand might not be being met completely by existing retail space. To that end, I think there should be a compromise between the expectations of the property sector and the demands of consumers.

The Hon. JAN BURNSWOODS: I will repeat my question: Do you then not support—

Mr JOHN BROGDEN: I answered your question.

The Hon. JAN BURNSWOODS: Do you not support the centres policy?

Mr JOHN BROGDEN: I answered your question.

The Hon. JAN BURNSWOODS: So you do not support the centres policy?

Mr JOHN BROGDEN: I answered your question.

The Hon. JAN BURNSWOODS: It certainly was not—

Mr JOHN BROGDEN: I know you did not write your—sorry. If I prolong it, ma'am, I will be here longer so I will keep my temper: I might get out quicker.

The Hon. JAN BURNSWOODS: If you wish to prevaricate on the issue of whether you are on the record as supporting centres policy, that is your choice. Mr Brogden, you said, when starting to answer my first question, you had a doubt about whether Mr Gazal's shopping centre was illegal. As you would know, the Land and Environment Court and the Court of Appeal have both made judgments stating that Mr Gazal's development was illegal. Are you telling us that you either know more about planning law, or that you choose to disagree with Justice Lloyd and the three judges of the Court of Appeal—Justices Handley, Giles and Pearlman?

Mr JOHN BROGDEN: Madam Chair, the Premier himself and the Labor Party disagreed with the decision of the Land and Environment Court last year with relation to the Collex development so much so that they overturned the decisions through a specific Act of Parliament. I use that as an example to indicate that there are many occasions in the history of this State, particularly since the creation of the Land and Environment Court in the late 1970s, where the Parliament expresses a will or the Executive expresses a will—

The Hon. JAN BURNSWOODS: Mr Brogden, why do you continue to avoid answering the questions?

CHAIR: Order!

The Hon. JAN BURNSWOODS: What is it that you are ashamed of or have difficulty with?

CHAIR: Order! Ms Burnswoods, if you would allow Mr Brogden to answer the question—

The Hon. JAN BURNSWOODS: I doubt very much whether the history of planning law in this State over two or three decades has much to do with our terms of reference. My question could not be clearer.

Mr JOHN BROGDEN: I could talk about garages, if you like!

The Hon. JAN BURNSWOODS: I asked very specifically—

The Hon. DAVID OLDFIELD: she took a fence today, she will take a carport tomorrow—

The Hon. JAN BURNSWOODS: —whether Mr Brogden thought he knew more about planning law than Justice Lloyd and the three judges of the Court of Appeal, that is, Handley, Giles and Pearlman. This is my third question and so far I am struck by the fact that he is unable to answer straightly any of the three questions that I have asked.

The Hon. DAVID OLDFIELD: Straightly?

CHAIR: You know perfectly well, Ms. Burnswoods, that the witness can answer the questions as he sees fit.

The Hon. JAN BURNSWOODS: Subject to remaining within our terms of reference Madam Chair?

CHAIR: Exactly.

Mr JOHN BROGDEN: You indeed asked me, Ms Burnswoods, whether I had a view of planning law and I am undertaking to answer.

The Hon. JAN BURNSWOODS: No, I did not ask you that at all.

Mr JOHN BROGDEN: You did. You said did I know more about planning law than three justices—

The Hon. JAN BURNSWOODS: That is right, that is what I said.

Mr JOHN BROGDEN: In seeking to answer your question I am wanting to give you some background.

The Hon. JAN BURNSWOODS: It was PriceWaterhouse that thought you knew a little bit about planning law to help them, was it not? My question was actually specific.

The Hon. JOHN RYAN: Gee, they are cutting. Aren't they good?

The Hon. JAN BURNSWOODS: Are you going to answer the question?

Mr JOHN BROGDEN: It is legitimate for the Parliament to express the will of the people in the way it wishes to. In the case of Collex the Parliament voted, with our opposition I might add—

The Hon. JAN BURNSWOODS: Again, Mr Brogden, my question was whether you personally know more about planning law than the three judges I named—

The Hon. JOHN RYAN: Just shake more, Jan. You really need to shake more—

The Hon. JAN BURNSWOODS: —who made decisions in relation to Orange Grove. Again I ask you to answer the question.

The Hon. JOHN RYAN: More swallowing!

Mr JOHN BROGDEN: If it were an illegal development, Madam Chair, then why did all of those individuals have DAs from Liverpool council and why did Craig Knowles open it then?

The Hon. JAN BURNSWOODS: What do you mean if it were?

Mr JOHN BROGDEN: Why did Craig Knowles open it, Jan?

The Hon. JAN BURNSWOODS: There have been three court decisions.

CHAIR: Order!

The Hon. JAN BURNSWOODS: There have been three court decisions that it was an illegal development.

Mr JOHN BROGDEN: I know Craig is from the right wing and I know you are backing Iemma but you should understand—

The Hon. JAN BURNSWOODS: How can you sit here in the position of Leader of the Opposition and now say if it were an illegal development? You are now actually challenging three court decisions.

CHAIR: Is that a question?

The Hon. JAN BURNSWOODS: No, it is a statement of disbelief.

CHAIR: Can you get on with your next question?

Mr JOHN BROGDEN: To be on the left wing of the Labor Party you are probably used to those in Caucus on a regular basis.

The Hon. DAVID OLDFIELD: Certainly used to disbelief!

The Hon. JAN BURNSWOODS: Mr Brogden, the Opposition has favoured Mr Gazal with the introduction of special legislation to retrospectively approve his illegal shopping centre. Why are you and the Opposition favouring Mr Gazal but you have not sought to create a special Act of Parliament for the other 12 developments like this across the State?

Mr JOHN BROGDEN: Because, unlike Bob Carr, I want to save the 450 jobs and the 60 businesses. The way that is done is by legislating to rezone the land.

The Hon. JAN BURNSWOODS: Why are you not interested in those sorts of issues, for instance, in relation to some of the other developments—the Cross Roads site at Liverpool, for instance, Rouse Hill, Taren Point, Sapphire Road at Warwick Farm, the one at Tamworth west that we have heard quite a lot about in the

upper House, the one at Rhodes peninsula, the Amotts site at North Strathfield. I could go on and on. Why is it that only one illegal development has attracted the interest of the Opposition?

Mr JOHN BROGDEN: I do not regard the other developments you have outlined as analogous.

The Hon. JAN BURNSWOODS: Don't you?

Mr JOHN BROGDEN: No.

The Hon. JAN BURNSWOODS: That is interesting. So that would be your answer as to why they are not getting the same treatment from the Opposition that Mr Gazal is getting?

Mr JOHN BROGDEN: If you are seeking further statements, Ms Burnswoods, I am happy to add the fact that the upper House in its entirety, with the exception of the Labor Party, supported the legislation as an indication that it is the will of all of the parties in New South Wales and Independent members, with the exception of the Labor Party, to do something about these jobs. Bob Carr does not care about the 450 jobs, I do.

The Hon. JAN BURNSWOODS: Again you seem unable or unwilling—

Mr JOHN BROGDEN: I have answered the question.

The Hon. JAN BURNSWOODS: No, you have not because my question was why are you favouring Mr Gazal but not creating legislation for the other—

The Hon. JOHN RYAN: Which bit of the word "jobs" do you not understand?

The Hon. JAN BURNSWOODS: Your reference to whether or not other parties in the upper House supported it, has again absolutely nothing to do—so far I think I have asked you five or six different questions and so far you have been unable to answer any one of them. What have you got to hide?

The Hon. DAVID OLDFIELD: Point of order: Ms Burnswoods seems to be suffering, in her line of questioning, by virtue of the fact that the answers for Mr Brogden have not been written by the Premier's Department like the questions have been.

The Hon. JAN BURNSWOODS: When are you joining the Liberal Party?

The Hon. DAVID OLDFIELD: Mr Brogden is surely able to answer these questions as he deems fit.

CHAIR: That is correct.

The Hon. DAVID OLDFIELD: If that is not the case then perhaps Ms. Jan Burnswoods could answer her own questions.

The Hon. JAN BURNSWOODS: We love seeing you defend the Liberal Party just like when you used to defend Tony Abbott.

The Hon. DAVID OLDFIELD: I am not defending the Liberal Party. What I am doing is attacking the slur that you represent that, fortunately, was trounced beyond wonder on the weekend. If you want to know, I voted Liberal on the weekend. Yes, I did!

The Hon. JAN BURNSWOODS: You do surprise me!

The Hon. DAVID OLDFIELD: Well do not be surprised because I looked forward to see the smile wiped off Mark Latham's face.

The Hon. JAN BURNSWOODS: You want to get back into the Federal council do you, so you are bribing the Liberal Party to put you on its ticket, are you?

The Hon. DAVID OLDFIELD: It would have been an absolute destructive matter for this country if your crowd—

The Hon. JAN BURNSWOODS: So you are bribing the Liberal Party—

The Hon. DAVID OLDFIELD: You should understand, Ms Burnswoods—

The Hon. JAN BURNSWOODS: Are you bribing the Liberal Party to put you on their ticket, are you?

The Hon. DAVID OLDFIELD: —that I have never voted Labor—

CHAIR: Order! Order!

The Hon. DAVID OLDFIELD: —have never supported Labor—

CHAIR: Mr Oldfield!

The Hon. JAN BURNSWOODS: Madam Chair, has this got anything to do with my question?

The Hon. DAVID OLDFIELD: —and you are just a socialist piece of work—

CHAIR: Order!

The Hon. JOHN RYAN: Madam Chair.

CHAIR: Order!

The Hon. DAVID OLDFIELD: —that is bad for this country.

CHAIR: Mr Oldfield!

The Hon. DAVID OLDFIELD: That's what you represent.

The Hon. JOHN RYAN: Fascinating as this is, I think it might be—

The Hon. DAVID OLDFIELD: That's not sucking up to them, that is clouting you.

CHAIR: Okay, Mr Oldfield—

The Hon. JAN BURNSWOODS: Madam Chair, are you the Chair of this Committee, or do you just sit here?

CHAIR: We will have a debrief on the Federal campaign at some other time.

The Hon. JAN BURNSWOODS: And you being paid for this job or do you just do it in your spare time?

CHAIR: No, I'm not, actually. Ms Sylvia Hale has a couple of questions.

Ms SYLVIA HALE: Yes, Mr Brogden.

Mr JOHN BROGDEN: Sylvia.

Ms SYLVIA HALE: Have you met with Mr Lowy in relation to this matter at all?

Mr JOHN BROGDEN: Which Mr Lowy?

Ms SYLVIA HALE: Mr Frank Lowy?

Mr JOHN BROGDEN: Not Mr Frank Lowy. I have met with Mr Steven Lowy.

Ms SYLVIA HALE: When was that?

Mr JOHN BROGDEN: On 9 April this year I met with Mr Steven Lowy in my office in Parliament House. It was a long meeting that would have easily run for in excess of one hour. At the meeting we discussed a number of different matters. He discussed his personal concern about his father's name had been dragged into this whole matter. Before I go any further, I might indicate to Ms Hale that the meeting took place in response to a letter from Mr Lowy and a phone call. I returned the phone call and suggested that we should meet, and he agreed to meet me. Mr Lowy, Steven Lowy, expressed his enormous concern about Westfield's reputation within this matter. He said to me on one occasion words to the effect of, "John, this has got nothing to do with competition. This has got nothing to do with Orange Grove. It's about reputation." He was clearly very concerned about Westfield's reputation. We then discussed the public statements that I made to the AFR about rezoning the land. He was most distressed about this in a public policy sense, as he regarded it as bad policy.

I indicated to him that at a later date or in the months or weeks to come I would be happy to sit down with him to discuss that matter and take his view on what is good policy and what is not good policy. He kept coming back to that matter on a number of occasions during our meeting. We discussed matters to do with Gazcorp next. He was the first person to raise matters relating to the planner at Liverpool council who was involved, subsequently, as a consultant to Gazcorp I understand. He said to me words to the effect of, "John, you've got to ask, you must ask questions in the parliamentary Committee about this person." I said, "That's a very serious allegation. I will pursue that and I will have it pursued in the parliamentary Committee." As the Committee would know, Madam Chair, that matter was pursued in terms of a former employee of Liverpool council working as a consultant to Gazcorp, and that's previous evidence. Mr Lowy said, "John, you should look at who the planning people have subsequently worked for", et cetera. He didn't mention the name of the employee he was referring to.

It was clear to me that he was suggesting that the previous planner had subsequently worked with and for Gazcorp. He then raised concerns about the leases at Orange Grove. He indicated that he was aware that Gazcorp has not advised their tenants when they were issued with leases that were pending legal action. He was very distressed about this. He said, "John, we run an enormous shopping centre business and I cannot do that. We are very straight up and down on this matter. You know, you just can't do that. You just can't do that." And he was quite effusive and distressed about this process. He made it quite clear at that point that the leases—his view was the leases between Gazcorp and the tenants at Orange Grove had not been signed re the disclosure statement indicating potential legal action. We then came to discuss the issue, my statement that Bob Carr can fix this in five minutes with the stroke of a pen. He said, "John, do you believe this? John, I can't believe that you think this land should be rezoned." And I said, "Well, I take a very pragmatic view that there are jobs and businesses at stake."

He stated that I was playing politics and I indicated that I am basing my decision to call for the land to be rezoned on the pragmatic support for the jobs and businesses. He went on to indicate that the leaseholders at Orange Grove should sue Gazcorp, that should be their action. I said, "Steven, if you've lost three or \$400,000 on a business you're hardly going to turn around and spend \$100,000 on legal fees suing Gazcorp." He said—I indicated that that's practically not going to happen. It's simply unlikely to happen. He then said words to the effect of, "We'll pay for it. Westfield will pay for the legal costs. Not directly, but through the shopping centre council we pay for the legal action." I was taken aback and indicated that I found that an extraordinary offer. He said, "Let me think about it, but we would assist them in the legal action to sue Gazcorp over the leases of this matter." I just concluded that part of the conversation by stressing again I regarded the concept of Westfield paying the legal costs of tenants at Orange Grove against Gazcorp as an extraordinary suggestion. It's fair to say it was not a happy meeting. He left it—were left it with issues well and truly aired, but he was in no way happy with my position and made that quite clear.

Ms SYLVIA HALE: So the intent of the meeting was really to pressure you to cease speaking out about what was happening at Orange Grove and, in fact, to proactively pursue Westfield's interests in this matter?

Mr JOHN BROGDEN: The intent of the meeting was effectively in line with the matters that Mr Lowy had raised in a written letter to me, and I don't know whether I have a copy of that letter here. Can I provide the Committee with a copy of that letter at a later date?

CHAIR: Thank you.

Mr JOHN BROGDEN: And they were effectively threefold: one, the concern about the reputation of Westfield; secondly, with concern for my statement about rezoning of existing non-retail land for retail purposes; and, thirdly, about my statement of the capacity of the Government by stroke of a pen, in other words by gazettal of a rezoning, to fix the problem. At that meeting there was no pressure put upon me in any sense, other than him arguing his point from his position.

Ms SYLVIA HALE: It is my understanding that it is extraordinarily inappropriate, if not illegal, for a third party to offer to pay the legal costs of a second party to achieve some outcome that is in the interests of the third party.

Mr JOHN BROGDEN: It is a procedure that, as I expressed to Mr Lowy, I found extraordinary, to say the very least, an extraordinary offer. I am not aware if it continues to be illegal in New South Wales, but certainly that practice in the past was illegal.

Ms SYLVIA HALE: When Mr Lowy spoke to you, you said that he named the planner at Liverpool—

Mr JOHN BROGDEN: No, he didn't name. Sorry, he didn't name.

Ms SYLVIA HALE: Right, well, he talked about it. Did he produce, at any stage, any concrete evidence of, what, the encircling by corrupt influences that seem to have prompted Mr Wedderburn to act so immediately?

Mr JOHN BROGDEN: Well, the meeting I had with Mr Lowy was prior to Mr Wedderburn's evidence to this Committee, so the concept of Westfield's assertion of corrupt influences encircling the Government had not been put forward as a concept by Westfield at that stage. He denied that his father had met with Mr Carr over this matter, or, I think, spoken to Mr Carr about this matter. But he did not indicate, at any stage, to me that Mr Ryan of Westfield had met with the Government. At no stage did he indicate to me that there had been any contact between Westfield and the Government. He stressed with me that his father had not had contact with Mr Carr on this matter.

CHAIR: Any further questions from the Government members?

The Hon. JOHN RYAN: I am happy to allow time for the Government to continue this extraordinary—

The Hon. AMANDA FAZIO: Yes, I have got some.

CHAIR: Amanda Fazio.

The Hon. AMANDA FAZIO: I can do without your comments, thank you, Mr Ryan.

The Hon. JOHN RYAN: I'm sure you could, but I like to be helpful.

The Hon. AMANDA FAZIO: I do have some questions for Mr Brogden. Firstly, just to follow on from a comment you made in relation to one asked by Sylvia Hale, you said you had a pragmatic view and you believe that because there were jobs and businesses at stake at Orange Grove that you are prepared to support the rezoning, but you said that you came to that conclusion even though you were well aware of the alleged corruption in the planning process at Liverpool council that had been put forward by Westfield, and you were aware of the purported irregularities regarding the leases. Are you prepared, then, to tell us in what circumstances wouldn't you support, what level of corruption has to be, has to surround the project before you would say, "Oh, well, in this case the jobs and businesses aren't worth saving"?

Mr JOHN BROGDEN: Well, they were allegations at that stage, Madam Chair, they weren't—and they hadn't been proved to be corrupt activities at this stage.

The Hon. AMANDA FAZIO: So that's your only response to that? So you don't give us a clear indication—

The Hon. JOHN RYAN: Well, Mr Knowles did open the place.

The Hon. AMANDA FAZIO: —of when too much corruption comes into play.

The Hon. JOHN RYAN: When's too much corruption for the Minister to open it?

Mr JOHN BROGDEN: Well, I've never borrowed Bill Gazal's boat.

The Hon. AMANDA FAZIO: Now, Mr—

The Hon. PETER PRIMROSE: Don't get too touchy, John.

The Hon. AMANDA FAZIO: Well, if we're going to start going into that we can always ask you a question that everybody in New South Wales probably wants to get an answer to, and that is—

The Hon. JOHN RYAN: Here it is.

The Hon. DAVID OLDFIELD: Has he had the boat as well?

The Hon. AMANDA FAZIO: —what were you doing when you were being paid \$110,000 by PricewaterhouseCoopers—

The Hon. JOHN RYAN: Madam Chair, this is not exactly in the terms of reference.

The Hon. AMANDA FAZIO: —right up until you became the Leader of the Opposition in 2002? I mean, if you want to start—

The Hon. JOHN RYAN: Those questions are as old hat as you guys are.

The Hon. AMANDA FAZIO: If you want to start raising corruption issues, can you answer that for us, then?

Mr JOHN BROGDEN: I have answered that question publicly, Madam Chair, on many occasions.

The Hon. AMANDA FAZIO: Yes, with no answer.

Mr JOHN BROGDEN: On many occasions.

The Hon. AMANDA FAZIO: Yes. Well, the value of your answer's pretty broad. Now, I want to go back to the involvement of you and your staff in relation to the handling of this issue. Have you or any of your staff been involved in the preparation of statutory declarations for Mr Gazal, Mr Bargshoon or anyone else involved in the Orange Grove inquiry?

Mr JOHN BROGDEN: I have been involved in the preparation of no statement other than my own statement here today.

The Hon. AMANDA FAZIO: No, statutory declarations.

Mr JOHN BROGDEN: Sorry, I thought you said statements or declarations. With respect to statutory declarations I've, I'm not aware—the four stat. decs that were printed or were referred to in, then printed in the Herald that started this scandal, Madam Chair, were, I assume, written and delivered long before I'd even heard of Gazal, Bargshoon or Orange Grove in these terms. So, in terms of stat decs, no.

The Hon. AMANDA FAZIO: Those stat. decs were actually provided at a hearing, not—

Mr JOHN BROGDEN: No, but they were prepared long before the hearing, Madam Chair.

The Hon. JAN BURNSWOODS: There were a number of statutory declarations that were written and dated and presented to us at a hearing.

The Hon. AMANDA FAZIO: Have you or any of your staff had meetings or phone conversations with Mr Gazal, Mr Bargshoon or the legal or other representatives in relation to Orange Grove?

Mr JOHN BROGDEN: I've met Mr Gazal, Mr—well, I've met most of the Gazal family minus Mrs Gazal. I've met Mr Bargshoon and I've met Mr Mosca. I met those people only in the context of Orange Grove, never before the Orange Grove issue came to light and they were—

The Hon. AMANDA FAZIO: Could you just give us the dates of the meetings—

Mr JOHN BROGDEN: Yes, happy to, sorry.

The Hon. AMANDA FAZIO: —and the phone calls—

Mr JOHN BROGDEN: Just about to go to them.

The Hon. AMANDA FAZIO: —and what was discussed?

Mr JOHN BROGDEN: I met with—right. On 21 July I visited the Orange Grove retail factory centre and Mr Gazal was not present. On 27 July I visited the outlet centre and Mr Gazal was present. That was the first occasion I'd met him. His two sons were there, Mr Bargshoon was there and Mr Mosca was there. John Laws was there from 2UE, and we were joined in an excited state by the member for Fowler, Julia Irwin, who, I note, received a swing to her for her support of workers in Western Sydney on the weekend—

The Hon. JOHN RYAN: Hear! Hear!

Mr JOHN BROGDEN: —unlike the rest of the Labor Party in Western Sydney. She was present on that occasion as well. We effectively toured the centre. At the end of that we sat down at the Gloria Jeans coffee shop—there's an outside area—and Mr Laws and myself, the Gazal family and Mr Mosca and Mr Bargshoon. It was at that meeting where they provided us with further details of the support given by the Department of Planning, Infrastructure and Natural Resources for the rezoning. I met Mr Gazal again, yeah, the day after, 26 August, the day after the closure, the formal closure of the centre. Mr Gazal was at the centre. I met him then. And I will say, and I can't get any hard details about this, but on a number of occasions during these Committee hearings, you might not be a we are as a member of the Committee inside the room, but as people, particularly downstairs on the level 7 meeting room, mill outside they buy a coffee and walking in and out of the building on the odd occasion and Mr Gazal and others were there and I spoke to them in and out, walking usually out of the building. And I don't—I've never had a phone conversation with Mr Gazal, Mr Bargshoon or Mr Mosca.

The Hon. AMANDA FAZIO: So, have they been up to your office? Have you had discussions with them in your office?

Mr JOHN BROGDEN: No.

The Hon. AMANDA FAZIO: Have Mr Gazal, Mr Bargshoon or any of the representatives made any offers of assistance, financial or otherwise, to you, your staff, or the Liberal Party?

Mr JOHN BROGDEN: Certainly not?

The Hon. JOHN RYAN: Nor would it be accepted.

The Hon. AMANDA FAZIO: Did any of your staff have any involvement in Mr Bargshoon's attempt at running for Federal Parliament?

Mr JOHN BROGDEN: No.

The Hon. AMANDA FAZIO: Have you ever made representations to the Minister for Infrastructure, Planning and Natural Resources on behalf of any developers?

Mr JOHN BROGDEN: Any developers? Well, in my capacity as a member of Parliament I will have made, over 8½ years, hundreds of representations, almost certainly written. On the odd occasion we will have had a meeting of interested parties on behalf of residents and applicants for developments.

The Hon. JOHN RYAN: He was once the shadow Minister for Planning.

The Hon. AMANDA FAZIO: Have you or your staff or any other Coalition MPs had discussions with any representatives of AMP in relation to the Cross Roads or Orange Grove development?

Mr JOHN BROGDEN: I haven't, no.

The Hon. AMANDA FAZIO: Are you aware if any other Coalition MPs have?

Mr JOHN BROGDEN: I'm not aware, no. And, as you're having my staff on after me I think you can ask those questions of them more effectively.

The Hon. AMANDA FAZIO: I want to go back to a question that the Hon. Jan Burnswoods raised earlier.

Mr JOHN BROGDEN: Yes.

The Hon. AMANDA FAZIO: Really, you stated that you have some reservations about the centres policy in terms of there being a greater demand for factory outlets than you think is currently catered for in the way that the current centres policy operates. I want to go back again and say, if that is the case, why are you only supporting—why have you only put forward a bill that protects Orange Grove? Why have you ignored 12 other applications for rezoning for similar developments to go ahead, and particularly noting that some of those developments are in rural areas? Why are you only concerned with making a bit of a stand in Western Sydney, or do you not care about the rights of people in rural areas?

The Hon. JOHN RYAN: What is the centres policy, by the way?

The Hon. AMANDA FAZIO: Why are you so selective? Why are you so selective in which centre—which shopping outlets centre—you have decided to support?

The Hon. JOHN RYAN: Is it a document on the right place for retailing, or on the way centres should be run?

The Hon. AMANDA FAZIO: I am not asking you a question, John Ryan.

The Hon. JOHN RYAN: Well, what is the centres policy? You keep asking him about the centres policy. There is no centres policy.

The Hon. AMANDA FAZIO: You can just be quiet.

The Hon. JAN BURNSWOODS: If you want to ask questions, you can have a turn.

Mr JOHN BROGDEN: Madam Chair, yes, I do care about the interests of country people. The reason why we have made a specific piece of legislation that has been supported by all the crossbenchers and independent parties in the Legislative Council is because it is a matter of jobs and businesses that have already been established, firstly; and, secondly, I refute again the suggestion that the Orange Grove centre is analogous to the other ones indicated by you.

CHAIR: Okay. Are there any further questions? If not, I thank you, Mr Brogden, for your attendance here today, which is very much appreciated.

(The witness withdrew)

The Hon. JOHN RYAN: Stunning. Did you guys vote for this, by the way?

Ms SYLVIA HALE: It was their suggestion.

The Hon. JOHN RYAN: It was your idea.

The Hon. DAVID OLDFIELD: We voted against it.

Ms SYLVIA HALE: I voted for it, in the interests of hearing all sides of the case.

The Hon. JOHN RYAN: We tried to save you from yourselves by voting against it.

The Hon. DAVID OLDFIELD: We have round two of Liberal propaganda now with the staff.

The Hon. JOHN RYAN: We tried to save you from yourselves.

PETER ALLEYN FRASER, Chief of Staff, Office of the New South Wales Liberal Leader, Parliament House, Macquarie Street, Sydney, and

STEPHEN JOHN MURPHY, Director of Communications, Office of the New South Wales Liberal Leader, Level 10, Parliament House, Macquarie Street, Sydney, sworn and examined:

CHAIR: I thank you, Mr Fraser and Mr Murphy, for your acceptance of the of our invitation to be here today. We need to go through procedural matters. Mr Fraser, you appearing in your capacity as the chief of staff at the invitation of the Committee?

Mr FRASER: Yes, I am.

CHAIR: Are you conversant with the terms of reference?

Mr FRASER: Yes.

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, please indicate that fact and the Committee will consider your request.

Mr FRASER: Yes.

CHAIR: Mr Murphy, you are appearing similarly in your capacity and the Committee has invited you in that capacity?

Mr MURPHY: I am.

CHAIR: Are you conversant with the terms of reference?

Mr MURPHY: I am.

CHAIR: Has either of you got a statement?

Mr FRASER: Yes, Madam Chair, I do.

CHAIR: Mr Fraser, if you could proceed.

Mr FRASER: Thank you, Madam Chair. I would like to thank you for the invitation to come here before the Committee today. This Committee is undertaking a serious investigation into the reasons why 450 people were thrown onto the unemployment scrap heap and 60 small businesses were shut down at Orange Grove. Without the Committee's work, the people of New South Wales would never have been told the truth about the Government's involvement in this sorry saga. I am aware that the Leader of the Opposition, Mr Brogden, has made reference to my involvement in this matter and I am happy to provide to the Committee a copy of my statutory declaration regarding my discussion with Mr Mark Ryan from Westfield. I can advise the Committee that I have only had one of the most limited roles in the Orange Grove scandal which has enveloped the Government. The role is clearly stated for the record in my statutory declaration that is now in the possession of the Committee. I would like to place on the record that the first time I met Nabil Gazal—

The Hon. JAN BURNSWOODS: Point of order: I have not seen such a document. Has anyone else seen this document?

Mr FRASER: I would like to table it for the Committee, Madam Chair.

CHAIR: It is being tabled now and it will be distributed shortly.

Document tabled.

Mr FRASER: I would like to place—

The Hon. JAN BURNSWOODS: Madam Chair, it would be true, would it not, that with a witness making a statement, there is no standing of a statutory declaration over and above a witness making a statement and answering questions of this Committee on oath. Whether it is a stat dec or not is utterly irrelevant from our point of view, given the rules which apply to parliamentary committees and the evidence given before them.

CHAIR: Mr Fraser has obviously given some information to the Committee, so we will look at it in time.

The Hon. JAN BURNSWOODS: I just thought that, firstly, I had not seen it; and, secondly, that it should be very clear that it has no status at all different or separate from whatever he might say to us or from whatever he might say in answer to questions.

CHAIR: You may proceed.

Mr FRASER: Thank you, Madam Chair.

The Hon. JOHN RYAN: While we are on the subject of statements, Mr Brogden read a statement which he promptly handed to Hansard. I move:

That Mr Brogden's statement that is currently with Hansard be made public.

The Hon. JAN BURNSWOODS: Madam Chair, I think in accordance with normal procedure, I, for one, would like to have a look at the written version first. It may be that it is different from what was said to us and we certainly do not make documents public until after Committee members have had a chance to look at them.

The Hon. DAVID OLDFIELD: Oh well, we will make an exception.

The Hon. JAN BURNSWOODS: Could I suggest that the tabling—that the motion be that it be tabled, and we can make it public by all means after Committee members have had a chance to look at it.

The Hon. JOHN RYAN: I think the item that Mr Brogden actually read from is with Hansard. I am happy to come back to it when it gets returned from Hansard.

CHAIR: When we get it back, we will look at it and table it and publish it. Mr Fraser, you may proceed.

Mr FRASER: Thank you, Madam Chair. I would like to place on the record that the first time that I met Nabil Gazal or members of his immediate family was on the first day of hearings in the committee room on level 7. I have only had brief conversations with Nabil Gazal and members of his family, usually about the behaviour of the Government members of this Committee attempting to cover up on Bob Carr's behalf.

The Hon. JAN BURNSWOODS: Point of order:

Mr FRASER: I would also—

The Hon. JAN BURNSWOODS: Sorry. If you would not mind, I am a Committee member and I have taken a point of order.

The Hon. DAVID OLDFIELD: And my father is a policeman.

The Hon. JAN BURNSWOODS: Madam Chair, again I would ask you to request the witness to withdraw the imputation that he has just made about Government members of this committee. It is not his role as a witness to attack members of the Committee. I would ask you to remind him of that, and I would like the statement withdrawn.

The Hon. JOHN RYAN: Madam Chair, to the point of order: As I understood it, the witness said that he was reporting something that he had been told by someone else—that is, there were other parties that were speaking to him about the "behaviour of Government members". It was not that the witness himself was making

the comments; he was reporting—it was reported speech. Under those circumstances, he could be said to be giving evidence, not actually making or casting any sort of aspersion on Government members. I do not believe he has anything to withdraw. He is simply reporting the truth as he recalls it.

The Hon. JAN BURNSWOODS: Madam Chair, further to the point of order: the attempt by Mr Ryan to protect the chief soprano over here is admirable.

CHAIR: Order!

The Hon. JAN BURNSWOODS: What he actually said—

The Hon. JOHN RYAN: Point of order: That is just outrageous, Madam Chair.

The Hon. JAN BURNSWOODS: What the witness actually said was in the third person.

CHAIR: Order!

The Hon. JOHN RYAN: Not only is it outrageous, but it is hypocritical. She complains that someone has cast aspersions on her—

CHAIR: Order!

The Hon. JAN BURNSWOODS: Madam Chair, I know you do a very bad job of chairing this Committee but—

The Hon. JOHN RYAN:—and now she attempts to accuse him of being an assassin or a Mafiosi.

The Hon. JAN BURNSWOODS: I am speaking to my point of order. I would ask you to ask this member to—

The Hon. JOHN RYAN: Give us a break. Is the pot going to call the kettle black?

The Hon. JAN BURNSWOODS: Madam Chair, could I ask you to ask this member to—

The Hon. AMANDA FAZIO: Can you not be quiet? You have not got the call.

The Hon. JAN BURNSWOODS: Madam Chair, could I ask you to chair this Committee?

CHAIR: Order!

The Hon. JAN BURNSWOODS: Madam Chair, further to the point of order: John Ryan is, as usual, totally wrong. The remark that was made was in the third person in relation to what this witness said he discussed with Mr Gazal. I not only took objection to it as one of the members of the Committee he is talking about, but I sought to remind you of your duty as Chair: we do not invite witnesses along here—and we have had this over and over again, and have had rulings in relation for instance to Mr Bargshoon—

The Hon. JOHN RYAN: We did not want him here. We voted against it.

The Hon. JAN BURNSWOODS: We do not invite witnesses along to this Committee and then allow them to attack members of the Committee. I would ask you to remind him of that fact.

The Hon. DAVID OLDFIELD: Further to the point of order, Madam Chair: The witness is, as Mr Ryan has said, merely giving, in a sense, the background of conversations that he had with the Gazal family in the sense of explaining his own statements—that these are the only times that he has had anything to do with the Gazal family. Clearly the Labor Party's questioning is down the track of, "Have you had all these nefarious-type meetings?", and Mr Fraser is merely giving the background as to the case—being that his only conversations have been in the room with the Gazals, and the substance of those conversations. Clearly the fact that the Gazals consider that this is entirely a Government cover-up and that the MPs for the Government have been engaged in

that cover-up most vigorously is a simple matter of fact that is understood by the public and merely repeated by the Gazals to Mr Fraser.

CHAIR: Yes. If Mr Fraser is reporting on the background to, and his actual involvement in, the Orange Grove matter—which is why I presume the Government members wanted Mr Fraser to be here in the first place—then he may proceed.

Mr FRASER: Madam Chair, I am delighted to confirm that that I am reporting on background.

The Hon. JAN BURNSWOODS: Madam Chair, I would like to take another point of order.

The Hon. DAVID OLDFIELD: Oh, man, again!

The Hon. JAN BURNSWOODS: The witness's statement about reporting—

The Hon. JOHN RYAN: A bad weekend?

The Hon. DAVID OLDFIELD: Yes, a bad weekend again, I reckon.

The Hon. JAN BURNSWOODS:—has absolutely nothing to do with it. He may report on background if he likes, but the fact still remains that what I sought from you was a ruling that witnesses are not limited to come here and attack members of the Committee. I think what he has just said has displayed his presumed complete misunderstanding of that point. That is why I am taking a further point of order—to remind him of that.

The Hon. JOHN RYAN: Madam Chair, to the point of order: First of all, to take that point of order you have to demonstrate that first of all the witness actually attacked any member of this Committee. That was the very point: He did not attack members of the Committee. He reported a conversation he had with another party. Admittedly that particular conversation included disparaging words about members of the Government, but I did not take it that Mr Fraser was actually quoting those words of his own. He was quoting someone else's words and, I must say, words which we ourselves have heard used by the Gazals when they have given evidence before this Committee. So it is not surprising to me that Mr Fraser would have heard disparaging words about Government members from the Gazals. We have had them uttered here in this Committee several times. He did not say anything offensive to Government members himself; he was reporting and answering a question. Under those circumstances, he cannot be asked to withdraw anything. I take it as, frankly, making a disparaging comment on him.

The Hon. JAN BURNSWOODS: He was not asked to withdraw anything.

The Hon. JOHN RYAN: You cannot take a point of order about attacking members of the Committee unless someone actually does it.

The Hon. JAN BURNSWOODS: I am just reminding you to, just occasionally, talk about what is actually before the Chair rather than going off on another tangent.

CHAIR: There is no point of order. Mr Gazal will be here later today and he will be able to further give advice to the Committee on those matters.

Mr FRASER: Indeed.

CHAIR: You may proceed.

Mr FRASER: Thank you, Madam Chair. I would also like to confirm that I was present in the meeting with Mr Brogden and Mr Bob Jordan, chief operating officer of Westfield, and Mr Greg Miles, director of development and asset management in Australia of Westfield, on 16 July 2004. As you would have already heard, Mr Brogden has already outlined the purpose of this meeting to the Committee. I am now happy to answer any relevant questions the Committee has, relating to the Orange Grove Designer Outlets Centre.

CHAIR: Thank you, Mr Fraser. Mr Murphy, do you have a statement?

Mr MURPHY: Madam Chair, I do, yes.

CHAIR: You may proceed to give that to the Committee.

Mr MURPHY: Thank you. I am pleased to be able to come before this Committee and assist with your efforts to uncover the truth behind the Orange Grove scandal. The truth is important because it goes to the heart of the trust in government. The attempted cover-up of the Orange Grove scandal is sinister in its design and calculating in its execution. Had it not been for the New South Wales Liberal Leader moving to establish this Committee, we would never have discovered the series of meetings that took place at the highest levels of government but which were kept secret from the people of New South Wales.

My job in respect of Orange Grove has been to assist in the formulation of information and communications strategy that exposes the contradiction, the evasion, the obfuscation and the lies by omission. Needless to say, I have been exceedingly busy. For example, in my experience of executive government, it beggars belief—certainly from the communications and strategic perspective—that a draft media release announcing an approval decision will be drafted unless there is a clear direction that that was what was required.

If a proactive approach were being taken without direction two versions would certainly have been prepared in advance—one in the positive and one in the negative. On the evidence presented before this Committee, that never happened and it has never been properly explained. There are many aspects of the scandal that have not been explained simply because they are inexplicable—they defy logic; they defy common sense. Why, for example, a Minister of the Crown would have to be told to "stick to the rules" is an extraordinary admission. That a Premier would feel the need to have such an instruction issued to a Minister is even more extraordinary. In communications and strategy terms Orange Grove is a debacle. In terms of the social cost of lost jobs and businesses it is a disgrace. I would be more than happy to answer any questions the Committee might have.

CHAIR: Thank you, Mr Murphy. Are there any questions?

The Hon. JOHN RYAN: I am happy to allow the Government to go first.

The Hon. AMANDA FAZIO: Mr Fraser, are you aware of the Government's State environmental planning policy [SEPP] 66—that is, the integration of land use and transport policy?

Mr FRASER: I am aware of it but not in specific detail. I can't quote you clause by clause.

The Hon. AMANDA FAZIO: Are you aware that Mr Nabil Gazal's Orange Grove development falls outside the SEPP 66 policy, which is known in generic terms as the centres policy?

Mr FRASER: Well, I haven't seen the centres policy and I would refer back to what the Hon. John Ryan said earlier—where is it and let's see it? We don't know what the centres policy is. So could you please outline it to me? I need more detail to be able to answer that question.

The Hon. AMANDA FAZIO: So you've been involved in this Orange Grove campaign being run out of your office for months and months and months and you don't even know what the relevant State planning laws are that apply to it. It's a disgrace.

Mr FRASER: Unlike Jennifer Westacott, who has come here before this Committee, Sam Haddad, who has come here before this Committee, and a host of other Department of Infrastructure, Planning and Natural Resources [DIPNR] representatives, I, too, don't have planning expertise. I'm not the delegated authority to sign off on such a planning process. I'm not Diane Beamer, who screwed over the project on the request of the Premier's office. So therefore it is not relevant for me to be able to quote it at you in detail line by line—

The Hon. JAN BURNSWOODS: No-one asked you to do that.

Mr FRASER: the centres policy or SEPP 66.

The Hon. JAN BURNSWOODS: We just wanted to know if you knew it existed.

The Hon. AMANDA FAZIO: That's right.

The Hon. JOHN RYAN: Draft SEPP 66.

The Hon. AMANDA FAZIO: Now, you've said that you don't know the policy so that probably also means that you're not aware that it specifically aims to improve accessibility to services by public transport.

Mr FRASER: I am aware of that in general terms.

The Hon. AMANDA FAZIO: You are. So why are you supporting the Orange Grove development, which is not centrally located near public transport?

Mr FRASER: I draw you back to my opening statement, which relates to the fact that 450 jobs were screwed over by this Government for one basic fact—that is, because, as we've heard before this Committee, Bob Carr and his office wanted it done.

The Hon. AMANDA FAZIO: Well, I don't think we've actually heard that from this Committee. That's your spin on it—but anyhow I suppose that's your job. As the Chief of Staff to the Leader of the Opposition I suppose that you would be aware that on the 13th of August this year Mr Brogden gave a speech to the Property Council of Australia. Are you aware of that?

Mr FRASER: I am.

The Hon. AMANDA FAZIO: Do you remember that speech?

Mr FRASER: I wasn't present.

The Hon. AMANDA FAZIO: As Chief of Staff you are not aware of speeches that are prepared for Mr Brogden?

Mr FRASER: I am indeed but I was not present at that event.

The Hon. AMANDA FAZIO: But do you remember the speech that was prepared for him?

The Hon. JOHN RYAN: Madam Chair, to assist the member, I don't think it was a speech. The Leader of the Opposition has already explained—

The Hon. AMANDA FAZIO: I don't need assistance from you.

The Hon. JOHN RYAN: It was an answer to a question so it was not a speech.

The Hon. AMANDA FAZIO: I'm asking questions. You're not giving evidence before this Committee.

The Hon. JOHN RYAN: You are redefining evidence yourself and then spinning it to witnesses.

The Hon. AMANDA FAZIO: You don't think he can handle himself here so you have come in and jumped to the rescue.

CHAIR: Order!

Mr FRASER: Madam Chair, I can assist the Committee in answering that question.

The Hon. AMANDA FAZIO: Please do.

Mr FRASER: Mr Brogden spoke off the cuff.

CHAIR: Thank you.

The Hon. AMANDA FAZIO: In that speech—or in his off-the-cuff comments—Mr Brogden stated, "We're becoming very centre focused. We have to continue to drive that policy. It's good policy at work." In view of his comments there, why are you still running this campaign about Orange Grove?

Mr FRASER: Madam Chair, I draw the Committee's attention back to my opening statement, in which this is about 450 jobs that were screwed over by the Labor Party.

The Hon. JAN BURNSWOODS: Point of order: Madam Chair, repetition of this figure of 450—which is massively bigger than even Mr Gazal himself claimed and massively bigger again than other people have identified in terms of jobs—

The Hon. DAVID OLDFIELD: It's a figure of mass destruction, isn't it?

The Hon. JAN BURNSWOODS: Certainly, as has been put on the record on many occasions, people are concerned about jobs—I have said it, Ms Fazio has said it, Mr Primrose has said it, the Premier has said it and so on. Could we please correct this continual reiteration of this made-up statistic?

The Hon. DAVID OLDFIELD: To the point of order: Madam Chair, the numbers are entirely in this case a matter of opinion where Ms Burnswoods is concerned. Four hundred and fifty is always the figure that was originally mentioned to me and it has always been the figure that I have taken as being the case. Now while I understand the Government has a desire to make it look like they've put less people out of work than 450 people—mind you, of course Mark Latham was happy to put hundreds and hundreds of thousands of people out of work in Tasmania—

The Hon. JAN BURNSWOODS: You know perfectly well that Mr Gazal himself has confessed that that figure is a gross exaggeration.

The Hon. DAVID OLDFIELD: Mr Latham was happy to put people out of work in his own electorate and also down in Tasmania. But in this fact, in this matter, 450 is the figure and no dispute from Ms Burnswoods can be sustained—

The Hon. JAN BURNSWOODS: Mr Gazal himself has disputed the figure.

CHAIR: Order! We can deliberate on the exact figure when we get to our draft report.

The Hon. DAVID OLDFIELD: I also have my own point of order.

CHAIR: Mr Oldfield.

The Hon. DAVID OLDFIELD: The line of questioning that Ms Fazio is following is more appropriate for someone like Mr Brogden or a member of the Opposition parliamentarily so. These gentlemen are staff members; it's not their design to dictate policy or to indeed defend policy. They are behind-the-scenes working staff; they are not here to uphold Liberal policy. It is not their job.

The Hon. AMANDA FAZIO: To the point of order.

CHAIR: Ms Fazio.

The Hon. AMANDA FAZIO: You would be well aware that is not a point of order, and I would like you to rule that way so I can continue with my questions.

CHAIR: If you could ask questions relating to the reason which I presume that the Government members invited Mr Fraser and Mr Murphy here, which is their involvement in the Orange Grove matter.

The Hon. AMANDA FAZIO: Thank you. Mr Fraser, are you aware of Liverpool council's local environment plan and that under that LEP Orange Grove was illegal—yes or no?

Mr FRASER: Madam Chair, may I finish my question—or did you forget your cauldron today?

The Hon. AMANDA FAZIO: Point of order: Madam Chair, I take offence at that comment and I would like Mr Fraser to withdraw it.

Ms SYLVIA HALE: Goodness me!

The Hon. AMANDA FAZIO: He's obviously very concerned about being here under public scrutiny but I'm not prepared to be insulted by some flunky from Brogden's office.

The Hon. JOHN RYAN: Well, I think that just—forget the point of order, Madam Chair.

The Hon. AMANDA FAZIO: Don't you—

The Hon. JOHN RYAN: To the point of order—

The Hon. JAN BURNSWOODS: Who chairs this meeting?

The Hon. JOHN RYAN: Given that the member has just insulted the witness herself then I think—

The Hon. JAN BURNSWOODS: You don't think she might have been provoked, by any chance?

CHAIR: Order!

The Hon. JOHN RYAN: Well, I think as members of Parliament we're sort of beyond being provoked.

The Hon. JAN BURNSWOODS: Why are you speaking? Who chairs this bloody Committee?

The Hon. JOHN RYAN: I beg your pardon? I'm speaking to the point of order and I suppose wrongly answering your silly interjection, which was disorderly, true. There might have been some merit to the point of order that the member took. However, given that she has just indulged in the same performance, I don't think the witness has to do anything, Madam Chair.

CHAIR: Mr Fraser, I just ask you not to be distracted by some of the commentary from members of the Committee.

Mr FRASER: Certainly, Madam Chair. It's very difficult when we're not getting sensible questions.

The Hon. AMANDA FAZIO: No. Madam Chair, if that's your ruling on the point of order then I find that completely unacceptable. We have had comments here earlier today in a point of order from Ms Burnswoods about witnesses coming here and insulting members of the Committee and I am simply not prepared to let that comment stand. If you do not instruct Mr Fraser to withdraw that comment I'm going to have to move dissent from your ruling.

CHAIR: Okay. I didn't actually hear the comment because I was speaking with the Clerk on a different matter.

The Hon. JOHN RYAN: Yes, what was the comment? Repeat it.

CHAIR: Yes, do you want to tell me what was offensive?

The Hon. JAN BURNSWOODS: Madam Chair, I think the Clerk—one of the two Clerks—could inform you of the comment and I would like you to give a ruling.

The Hon. DAVID OLDFIELD: I can tell you, Madam Chair. I had the impression that Mr Fraser was indicating that Ms Fazio was a witch. That was my understanding. He used the word "cauldron" so I would have thought toil and bubble and trouble—that was the connotation that I got from that.

CHAIR: Mr Fraser, you might take back the suggestion—

Mr FRASER: Madam Chair, for the purposes of the Committee I am pleased to withdraw—

The Hon. JAN BURNSWOODS: Madam Chair, could I ask you please to give a ruling?

CHAIR: I just have.

Ms SYLVIA HALE: Madam Chair, the witness has withdrawn the statement. Let's proceed.

The Hon. JAN BURNSWOODS: In that case, I move dissent from your ruling.

The Hon. JOHN RYAN: What—to ask him to withdraw it?

CHAIR: You don't want him to withdraw?

The Hon. JOHN RYAN: You don't want him to withdraw?

The Hon. JAN BURNSWOODS: I move dissent from your ruling.

The Hon. JOHN RYAN: What ruling? She just asked him to withdraw it—

Ms SYLVIA HALE: And he did.

The Hon. JOHN RYAN: Go ahead and withdraw it, Madam Chair.

The Hon. DAVID OLDFIELD: They're just filling in while Peter's upstairs getting more questions from Bob.

The Hon. JOHN RYAN: Go ahead.

The Hon. JAN BURNSWOODS: Madam Chair, I have moved dissent from your ruling.

The Hon. JOHN RYAN: From what?

CHAIR: In other words, you don't want him to withdraw.

The Hon. JAN BURNSWOODS: I have moved dissent from your ruling.

The Hon. JOHN RYAN: Okay, well we'll support that.

CHAIR: Okay.

The Hon. DAVID OLDFIELD: All right, we're dissenting from your ruling too.

The Hon. JOHN RYAN: He doesn't have to withdraw now.

The Hon. DAVID OLDFIELD: You don't have to withdraw. It's all right.

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

CHAIR: She's moved dissent. We have to consider this amazing motion of dissent so we have to clear the room.

(Short adjournment)

CHAIR: We will resume the public hearing. The motion of dissent was defeated.

Mr Fraser, we now have a copy of Mr Brogden's opening statement, which you have given to Hansard. Are you able to advise the Committee whether Mr Brogden would be happy for it to be tabled and made public?

Mr FRASER: Yes, he would be happy for it to be tabled and made public.

CHAIR: Okay, I have a motion that Mr Brogden's opening statement be tabled and made public.

The Hon. JAN BURNSWOODS: No, Madam Chair, we agreed before that Committee members have to be given a chance to read the document.

CHAIR: Okay, we will circulate the document before it is made public.

The Hon. JOHN RYAN: Madam Chair, normally we do that but usually when a witness is reading before the Committee we usually allow them without reading their statement to have their statement made public. As I understand it, the document we are now receiving is a document handed from Mr Brogden straight to Hansard, so there is no need to read it. Even if Mr Brogden did not say what was in the statement, it was the material he was using when he was speaking, and it has been the usual position that we have usually made them public in order for members to have access to them.

CHAIR: Okay, I have a motion—

The Hon. JAN BURNSWOODS: Madam Chair, I repeat, I have no objection to Mr Brogden's statement being made public, but on every occasion when a document is tabled before the Committee, Committee members have the right to see if there is something in it which may affect its being made public. It will probably take five minutes but none of us has seen this document. I believe it is a very important principle that documents not be made public until Committee members have seen them. I have no idea what is on these pieces of paper.

CHAIR: Okay, in five minutes time we will come back to it.

The Hon. AMANDA FAZIO: Mr Fraser, how many meetings or discussions have you or your staff or colleagues had with Mr Nabil Gazal and his son or other associates? I know you said you met him for the first time at the first public hearing of this inquiry, but how many other times have you or your staff or colleagues met with him, his sons and associates?

Mr FRASER: As I outlined in my opening statement, the only times that I have met with Mr Gazal or his sons are on the days on which the Committee sits, usually in the Committee room.

The Hon. AMANDA FAZIO: At any time have Mr Gazal, his sons or associates received advice from you or your colleagues on the content or timing of media releases or media comment and, if so, could you elaborate on what that was?

Mr FRASER: As I just outlined, the times at which I have met Mr Gazal and his sons have been in the Committee room. As I made reference to in my opening statement, they were usually about the performance of members of this Committee.

The Hon. AMANDA FAZIO: Have you spoken at any time with people from Flagship Communications in relation to the Orange Grove project and, if so, what was the nature of those discussions?

Mr FRASER: No.

The Hon. AMANDA FAZIO: Have you received material from the member for Lane Cove about the Orange Grove development?

Mr FRASER: No.

The Hon. AMANDA FAZIO: Mr Fraser, the taxpayers of New South Wales pay you \$31,000 a year. Is any of your salary topped up by money from Mr Gazal or any of his companies, or do you receive money from the party head office through Mr Gazal?

Mr FRASER: Madam Chair, I was invited here today to answer questions about Orange Grove and the 450 people that were thrown out of work by the Carr Government. This question is outside the terms of reference of this inquiry.

The Hon. JOHN RYAN: To the point of order taken by the witness.

The Hon. AMANDA FAZIO: Witnesses cannot take points of order.

The Hon. JOHN RYAN: Yes they can.

The Hon. AMANDA FAZIO: I would like Mr Fraser to answer the question I have asked.

The Hon. JOHN RYAN: You would be surprised to know that I think your question was legitimate to the extent to which the member was seeking to get information as to whether or not the witness was paid money by Mr Gazal either directly or indirectly. I have to say that is relevant to the committee and I think the witness should answer that question.

Mr FRASER: I am delighted to answer the question. As I said, it is outside the terms of reference but out of courtesy to this Committee and the importance of this inquiry I am delighted to provide some detail of this matter. I am paid by the Premier's Department an amount which is now in the public domain, and by the Liberal Party of Australia, New South Wales Division. I can confirm to the Committee the amount provided by the Liberal Party is under \$100,000. The only issue in relation to my remuneration which could be relevant to this inquiry is whether I receive any amount from any party involved in the Orange Grove designer outlet centre scandal. I say for the record that I have never received any contribution towards my remuneration from any such party.

The Hon. AMANDA FAZIO: So, your only sources of income that you are prepared to publicly disclose are your taxpayer salary of \$31,000 a year and some form of remuneration from the Liberal Party office of under \$100,000?

The Hon. DAVID OLDFIELD: Point of order: On Mr Fraser's behalf I take some offence to that question. This question—so the only sources of income you are willing to disclose—the only money matter relating to Mr Fraser where Orange Grove is concerned is whether or not he receives money in any form from Mr Gazal. He has answered that question no. It would not matter who else is paying him. If it is not Gazal and not Gazcorp and it is not related to Gazcorp, any other disclosure is irrelevant and not required.

CHAIR: I uphold that point of order. I think Mr Fraser has answered the question that is relevant to the terms of reference.

The Hon. AMANDA FAZIO: So, you are not prepared to tell us who else tops up your salary?

Mr FRASER: Madam Chair, as I said in my statement, I am paid by the Premier's Department an amount which has already been publicly disclosed—and may I say by the Premier in his estimates—and by the Liberal Party of Australia, New South Wales Division. I think that covers it.

The Hon. JOHN RYAN: Point of order: There is a suggestion that Mr Fraser is paid by someone else. That has been inferred, that Mr Fraser is paid by somebody other than the two sources that he has been paid from. To ask him the question in that form is a little bit like asking someone when did they stop beating their wife. It infers that no matter what answer they give it will somehow mean that the answer is yes. I think the member has phrased the question in a pretty provocative fashion. I think it is fair to give the witness an opportunity to at least explain to the Committee that, contrary to the assertion in the question, he is able to explain to the Committee that he has told us his source of income and that there is nothing else.

The Hon. AMANDA FAZIO: To the point of order: I am simply seeking to get clarification from Mr Fraser—he has noted two sources of income to us—as to whether or not they are his sole sources of income or if there is any other source of income. There are a lot of questions about the Orange Grove project in relation to assistance by a public relations company, particularly Flagship Communications, which is strongly linked to the member for Lane Cove. A lot of areas here need to be clarified. Mr Fraser said he has not had any meetings with Flagship Communications and that he had not received material from the member for Lane Cove about the Orange Grove development. But I think, given the level of allegations thrown around during this inquiry about corruption and inappropriate behaviour by people, there is nothing wrong with seeking clarification from Mr Fraser about what his sources of income are so we can be sure that it is all above board.

The Hon. DAVID OLDFIELD: To the point of order: Madam Chair, I remind you that only a moment ago you upheld a point of order in relation to me, suggesting that the only relationship of income where Mr Fraser is concerned is whether or not it comes from Gazal rather than where else it might come from. Mr Fraser may very well have no other sources of income, but if he has them they are not within the terms of reference of this Committee unless they relate to Gazcorp or Orange Grove, or if the Hon. Amanda Fazio wants to try to tie some sort of channel of funds through Gazcorp, to Flagship, to Fraser, or something similar. So it is not a matter of Mr Fraser disclosing what are his sources of income; it is, if he chooses, a matter of disclosing that they are not related to Gazcorp, Orange Grove, or associated parties.

The Hon. AMANDA FAZIO: Further to the point of order: At earlier hearings we had questions ruled in order that related to whether or not the Director-General of Planning in New South Wales had ever babysat for the Minister, which I thought was a pretty far stretch in terms of the Committee's terms of reference. That was ruled to be in order within the terms of reference. I fail to see why this question is out of order as it is simply seeking to clarify for the interest of the public that there is no web of corruption that relates to the office of the Leader of the Opposition in this matter. I am simply seeking to clarify that. That would be clarified by Mr Fraser giving a full answer in relation to his sources of income.

The Hon. DAVID OLDFIELD: Further to the point of order: I pick up on what the Hon. Amanda Fazio said with regard to the questioning of Ms Westacott at the time. Those questions were related to an association of friendship or close relationship, or they were aimed at ascertaining the close relationship between Minister Knowles and Ms Westacott. It is perhaps worth pointing out that Ms Westacott said quite clearly that she had not met either the children or the family of the Minister. Since then you will be aware that Ms Westacott has written to us stating that she has since read the *Hansard* and she has now disclosed to us that her answers were incorrect. On that day she did not tell us the truth. She has now acknowledged in writing that she has met the Minister's children and wife. So that aside, whether or not she babysat is irrelevant to questions to Mr Fraser about his sources of income. His only source of income which is of any pertinence to this Committee is if there is some line from Gazcorp or related associates. You have already ruled on that point of order.

CHAIR: That is right, I have. So can we keep the questions to those matters please?

The Hon. AMANDA FAZIO: I now have some questions for Mr Murphy. Mr Murphy, have other members of the Opposition Leader's staff been involved in meetings with Mr Gazal and members of Mr Gazal's family?

Mr MURPHY: Certainly not me, no.

The Hon. AMANDA FAZIO: Are you aware of any other staff members who have?

Mr MURPHY: I am not.

The Hon. AMANDA FAZIO: Have members of the Opposition Leader's staff met with Sam Bargshoon?

Mr MURPHY: Not that I am aware, no.

The Hon. AMANDA FAZIO: Have members of the Opposition Leader's staff met with Jeff Egan and David Elliott of Flagship Communications?

Mr MURPHY: No.

The Hon. AMANDA FAZIO: Are you sure of that? All staff have not met with them?

Mr MURPHY: Yes.

The Hon. AMANDA FAZIO: Have any members of staff met with the member for Lane Cove either in relation to business to do with Flagship Communications or in relation to Orange Grove?

Mr MURPHY: Not that I am aware, no.

The Hon. AMANDA FAZIO: Given that Mr Roberts is a tenant of Mr Gazal, are you aware of any benefit provided to Mr Roberts by Mr Gazal in return for advocating on Mr Gazal's behalf in Parliament?

Mr MURPHY: My understanding is that the lease of Mr Robert's office was one that was inherited by him from the former member for Lane Cove.

The Hon. AMANDA FAZIO: Just to clarify, when I asked you about whether any of the Opposition Leader's staff have had meetings with the range of people that I have canvassed, your answer was not that you were aware of any. Does that also relate to any telephone conversations, emails and faxes, apart from to face-to-face meetings?

Mr MURPHY: Not that I am aware of, no.

The Hon. AMANDA FAZIO: You are not aware of very much in Mr Brogden's office?

Mr MURPHY: I do not trammel through everyone's individual email accounts and I do not hover over the shoulders of my colleagues 18 hours a day listening in to every phone call that they might have. I think that would be an unreasonable thing to expect.

The Hon. AMANDA FAZIO: Finally, are you aware—

CHAIR: Ms Sylvia Hale has some questions.

The Hon. AMANDA FAZIO: I just have one final question, Madam Chair.

CHAIR: We can come back to it, if necessary.

Ms SYLVIA HALE: Mr Fraser, in your statutory declaration, a copy of which you have provided to the Committee, you say this in relation to Mr Mark Ryan from Westfield when he rang you, the second phone call on the afternoon of 14 July:

Mr Ryan advised that he had just read a transcript of the New South Wales Liberal Leader's comments relating to Orange Grove and was very deliberate and calculating in the language he used.

That is, Mr Mark Ryan was very deliberate and calculating in his language.

Mr FRASER: That is correct.

Ms SYLVIA HALE: You state:

Mr Ryan was obviously irritated and through force of language he wanted me to be left in no doubt that "we are big boys".

Then you have in brackets the word "Westfield ". You are saying that Mr Mark Ryan used those words?

Mr FRASER: Yes, I am.

Ms SYLVIA HALE: What did you interpret that to mean?

Mr FRASER: I took it as Westfield, a significant company, with major investments in New South Wales and around the world and that we are major players in this city.

Ms SYLVIA HALE: Did you read into it any implied threat or pressure?

Mr FRASER: As I said in my statutory declaration, the words were very deliberate. They were calculated and they were there to communicate a message.

Ms SYLVIA HALE: So you would not have been surprised when subsequently Westfield pursued its legal actions against Mr Brogden?

Mr FRASER: I could not answer that question. Unfortunately, I am not advising Westfield in a legal or communications sense, so I could not give you a presumptive answer on that.

Ms SYLVIA HALE: So when you state that Mr Ryan told Mr Brogden that he should "put up or shut up", presumably Mr Brogden's failure to do so may have contributed to these legal proceedings?

Mr FRASER: It may well have done. I just could not speculate on that.

Ms SYLVIA HALE: Mr Brogden, in his evidence, talked about a conversation he had had with Mr Steven Lowy. In that conversation Mr Brogden said that Mr Lowy had flagged with him the possibility of Westfield financing legal proceedings by leaseholders against Gazcorp?

Mr FRASER: Yes.

Ms SYLVIA HALE: To my understanding that is certainly inappropriate but it is potentially an illegal action on the part of Westfield if that were to take place. Did Mr Brogden ever discuss that with you?

Mr FRASER: He made reference to it after the meeting. I can only draw you back to Mr Brogden's earlier statement that he has provided in his interview with ICAC—obviously information regarding a whole range of matters relating to Orange Grove. I would have to draw you back to Mr Brogden's question other than saying he did discuss it with me. He alerted me. I cannot go any deeper than that.

Ms SYLVIA HALE: So did you find it odd that Westfield, which has made much of the supposedly illegal actions of Gazcorp and others, should itself at least be contemplating, if not undertaking, illegal activities itself?

Mr FRASER: As Mr Brogden said it was an extraordinary offer. Obviously you can take from that point and also in your earlier comments that it may have been improper, or potentially once in New South Wales illegal. It would have to certainly raise certain questions about their behaviour.

Ms SYLVIA HALE: Have you had subsequent conversations with people from Westfield?

Mr FRASER: No I have not. I have only had two conversations with representatives—

Ms SYLVIA HALE: And both on the one day?

Mr FRASER: That is correct.

The Hon. JOHN RYAN: Mr Fraser, there has been earlier reference to your remuneration. Are you aware of any other Opposition leaders who funded their staff from sources other than the Premier's Department in the fashion that you do?

Mr FRASER: Yes, I am.

The Hon. AMANDA FAZIO: Point of order: My point order is that this is completely outside the terms of reference.

The Hon. DAVID OLDFIELD: It was not when you were asking the question.

The Hon. AMANDA FAZIO: No, but the Chair made a ruling that my question was outside the terms of reference.

The Hon. DAVID OLDFIELD: No, that is not correct.

The Hon. AMANDA FAZIO: I have the call at the moment. You can just be quiet Mr Oldfield.

The Hon. DAVID OLDFIELD: Okay then.

The Hon. AMANDA FAZIO: The Hon. John Ryan may well want to get some tit-for-tat evidence on the public record. If he wants to do that he can do that in another forum. It is not appropriate to do that here because it is simply outside the terms of reference of this inquiry. Madam Chair, you are well aware of that. You told me that my line of questioning was going outside the terms of reference. I did not agree with you but you ruled that way. I am prepared to accept your ruling, reluctantly, but I accept it. I request that you uphold my point of order and rule the Hon. John Ryan's question completely out of order. This is the stuff for press conferences, not for committee inquiries.

The Hon. DAVID OLDFIELD: To point of order: Madam Chair, I specifically remember this because it was a ruling on a point of order made by me. Your ruling related specifically to a disclosure of whatever other sources of income may be received by Mr Fraser. It had nothing to do with what the historical matters may have been regarding other Opposition leaders' staff being paid from outside sources. We were merely making the point that there was no need for Mr Fraser to be questioned about every conceivable source of income he had unless it was related to Gazcorp.

The Hon. JOHN RYAN: I think my question is pretty much framed in a very similar fashion, not to the question that the member had ruled out of order, but to the previous question in which she asked the witness whether he was paid by sources outside the public purse. I am simply asking him if he is aware whether this is a standard practice or otherwise for previous Opposition leaders to seek supplementation for their office staff from other places. Unless we are able to ask him a question of this nature we simply have evidence hanging out there which at two Committee meetings members of the Labor Party have sought to bring into evidence in order, somehow or other, to impugn the reputation of the Opposition Leader or these witnesses. I think it is only fair to give them an opportunity to put that answer into an appropriate context. I think the manner in which I have framed my question is deliberately in the same terms or very similar to the terms of the original question by the Hon. Amanda Fazio, which started this whole discussion. It was framed in a very similar fashion. I believe that the question is in order.

The Hon. AMANDA FAZIO: To the point of order: While I can appreciate the Hon. John Ryan saying that he thinks that to air these matters publicly would be only fair, that may well be the case. But if they do not relate to the terms of reference for this inquiry, then they can be aired publicly elsewhere, and that will attain your quest for fairness in this matter. Simply, the Chair, only 10 minutes ago or less, ruled on a point of order—as I said, I probably would have preferred the ruling to have been the other way but I accept the ruling of the Chair—and I would expect the same sort of ruling would be given now in terms of consistency. The question you asked has nothing to do with the terms of reference; it is simply a matter of trying to save face for the Liberal Party. That is something you can do via a press conference, and I would ask the Chair to uphold the point of order.

CHAIR: In accordance with your request for consistency, I did allow a general question about Mr Fraser's sources of income earlier, and the Hon. John Ryan's question is therefore in order.

The Hon. AMANDA FAZIO: In that case, you leave me with no option but to move dissent from your ruling.

CHAIR: Okay, if you could put that in writing. I just point out that this is the end of this session.

The Hon. DAVID OLDFIELD: Can we get an answer to the Hon. John Ryan's question while we are waiting for this to go through?

The Hon. AMANDA FAZIO: No, you cannot.

CHAIR: Unfortunately we cannot.

The Hon. JAN BURNSWOODS: I think you need to clear the room, because dissent has been moved.

CHAIR: I have to deal with the motion of dissent. So, gentlemen, I regret that we will have to clear the room again.

(Short adjournment)

CHAIR: The motion for dissent was defeated. Mr Fraser, you may proceed to answer the Hon. John Ryan's question.

Mr FRASER: In answering the question, yes, I am aware of previous practices undertaken by previous leaders of the Opposition. It has come to my attention that a previous Leader of the Opposition, Mr Carr, also topped up—

The Hon. AMANDA FAZIO: What about Kerry Chikarovski?

The Hon. JAN BURNSWOODS: Or Peter Collins?

Mr FRASER: Mr Carr, when Leader of the Opposition, regularly used privately sourced money from the Labor Council. I am happy to table this article for the Committee's attention, and I would like to quote from it: "that donations, tens of thousands of dollars, have been used by Mr Carr to top up the salaries of four to five Opposition staffers, including one allocated to Labor's spokesman on finance, Mr Michael Egan". So there is a long-term practice of topping up salaries. One would have to question whether his current Chief of Staff, Mr Wedderburn, was one of those four or five who were topped up in Opposition when he was a staffer.

The Hon. JOHN RYAN: You quoted from a document. Can you name it?

Mr FRASER: Certainly. It is the *Sydney Morning Herald* dated 11 February 1992.

CHAIR: And you are tendering that to the Committee?

Mr FRASER: I am tendering that.

The Hon. DAVID OLDFIELD: Could we take from that then potentially, Mr Fraser, that at the time when Mr Carr was topping up a number of members' salaries the place where it was being topped up from was also receiving considerable donations from Westfield?

Mr FRASER: It could well have been. In preparing for today and also undertaking a regular search of the AEC web site you can obtain information regarding political donations to all political parties. As Mr Brogden made reference to it in this statement, Westfield has received hundreds of thousands of dollars from the ALP over many years—

The Hon. DAVID OLDFIELD: I think it is the other way round.

Mr FRASER: Indeed. I understand, and I think this Committee has also had evidence before it—I think Ms Hale has made reference to it before in this Committee—that it was hundreds of thousands of dollars. I think approximately from memory it might have been \$290,000 or thereabouts. Actually, I will be able to help the Committee. It is \$229,150 worth of donations to the ALP.

The Hon. DAVID OLDFIELD: I understand that it may be more appropriate to ask Mr Gazal this question this afternoon. But given what was disclosed earlier by the Opposition leader with regard to an offer by Westfield to fund legal cases against Gazcorp through Gazcorp's tenants, are you aware of any particular personal matter? Has anything come to your attention that would cause the Lowy family to be so personally vindictive towards the Gazal family?

Mr FRASER: To answer your question, no.

The Hon. DAVID OLDFIELD: That is probably more appropriate for Mr Gazal.

Mr FRASER: I am aware of absolutely nothing.

The Hon. AMANDA FAZIO: Mr Fraser, during the hearings that have been held into this inquiry it has been very noticeable that you spent quite a deal of time during the hearings talking to both Mr Gazal and Mr Bargshoon and their associates, and that immediately after talking to them you arranged for the attendants to either hand up questions to Liberal members of the Committee or to Mr Oldfield's staffer, who then handed the

question to Mr Oldfield. Were you in fact just acting as a conduit for questioning for Mr Gazal, or were you devising these questions on your own behalf?

Mr FRASER: To answer the question, for the Committee's record, I have never met Mr Bargshoon. I have never spoken to Mr Bargshoon. As I said in my statement, I have spoken to Mr Nabil Gazal. I have spoken to his two sons.

The Hon. AMANDA FAZIO: You have not answered the question. Were the questions that you handed up after talking to Mr Gazal and his associates at public hearings of this Committee—questions that you had handed up to both the Liberal Party members on the Committee and to Mr Oldfield's staffer, who subsequently handed the questions up to Mr Oldfield—coming directly from the mouth of Nabil Gazal and his associates or were they questions that you were coming up with on your own?

The Hon. JOHN RYAN: Point of order: I think the question is a bit loaded.

The Hon. AMANDA FAZIO: Really!

The Hon. JOHN RYAN: It is loaded in the sense that there is an allegation being made that Mr Fraser has passed Opposition members questions—I imagine that means me. I do not recall receiving any notes from Mr Fraser as it happens.

The Hon. JAN BURNSWOODS: Through the attendants.

The Hon. JOHN RYAN: Even through the attendants. I have not received a single note.

The Hon. JAN BURNSWOODS: Well, look at the video record. It would be really interesting, would it not?

The Hon. JOHN RYAN: I have received notes from other members of Mr Brogden's staff but not Mr Fraser. To ask Mr Fraser a question phrased in that way is somewhat loaded because again, as is the case with many of the Government members' questions, they are phrased in such a way that if they answer any part of them they admit to something that did not happen, and this is an excellent example of that. Mr Fraser never handed me notes.

The Hon. JAN BURNSWOODS: Why didn't Mr Fraser say "No" when he was asked the question?

The Hon. JOHN RYAN: Because "no" is not a complete answer because the question is worded in such a way as to entrap him. I think it is only fair that he get asked straight questions, not ones which are designed, no matter what he says, to somehow or another incriminate him.

The Hon. JAN BURNSWOODS: It will be really interesting to look at the video record.

Ms SYLVIA HALE: To the point of order: I believe the purpose of this committee is to ask questions of witnesses. Now where those questions come from, I think, is irrelevant. It is the substance of the question that counts and it is the answers that are given to those questions. I do not care whether they came from Mr Gazal, Mr Lowy or whoever. It is the answers to the questions is what we are considering. I think the point of order is totally irrelevant and an irresponsible one.

The Hon. AMANDA FAZIO: Point of order? I do not know what you were talking to. You made your contribution on what you think was going on, but I think I asked a legitimate question. My question was legitimate. If Mr Fraser did not hand up questions he could have simply answered "No" and then I would have asked him did any of his other staff hand up questions. The whole point is he is just refusing to answer. Once again, there are all these allegations of webs of corruption that are made in relation to Government members of this committee, and members of the Government in relation to this matter, but ask a simple question of a witness from the staff of the Leader of the Opposition and the Hon. John Ryan runs in and calls a point of order. We cannot get a straight answer to anything from any of Mr Brogden's staff. They either did not meet with anybody or they are not aware of anything. We are just trying to clarify some issues here. I really do not see why Mr Fraser will not give a straight answer to a pretty simple question. For anybody who believes that notes were not passed up that emanated from him, as the Hon. Jan Burnswoods said, either the news footage from

these hearings or the parliamentary record from these hearings will show lots of pieces of paper being flourished to the attendants to be handed up.

The Hon. JOHN RYAN: As is common.

The Hon. AMANDA FAZIO: I am just asking. My question was: were those questions that were coming up to people that emanated from Mr Fraser and/or his other staff members, their own questions or were they asking questions at the direction of Mr Gazal.

The Hon. JOHN RYAN: Guess what the answer to that question will be?

CHAIR: I think Mr Fraser has answered the question.

Mr FRASER: I have Madam Chair, thank you.

The Hon. AMANDA FAZIO: No, he has not, but if you want to cover it up. What about Mr Murphy? What about you?

CHAIR: That was the final question and we have had many extra bits to it.

The Hon. JAN BURNSWOODS: Madam Chair, could I ask Mr Murphy the question that Ms Fazio has just asked Mr Fraser?

CHAIR: All right, if you just get on with asking a final question.

The Hon. JAN BURNSWOODS: I am asking the question in relation to the other staff because Mr Fraser certainly did not answer the question. So I would like either of them to answer the question Ms Fazio asked in relation to any of other staff from Mr Brogden's office.

Mr MURPHY: What was the question?

The Hon. JOHN RYAN: Are you mouthpieces?

The Hon. JAN BURNSWOODS: Ms Fazio can read it again if she would not mind

The Hon. AMANDA FAZIO: No, I have not got it written down. My question was, during these inquiries there was a lot of discussion going on between staff members from the office of the Leader of the Opposition and Mr Gazal and his associates. What I want to know is after those discussions questions were handed up to members of the committee to ask, namely Mr Ryan, or through his staffer, Mr Oldfield, did you come up with those questions or were you simply acting as a conduit for Mr Gazal?

Mr MURPHY: I at no stage have acted as a conduit for Mr Gazal. On those days when I have attended those hearings there have been a number of exchanges between myself and Mr Fraser and other members of the Leader's staff in which we were discussing the contradictions, sometimes the evasion of various witnesses before the committee, using that information to formulate questions to send to committee members. That is appropriate.

The Hon. AMANDA FAZIO: So you formulated those questions?

Mr MURPHY: As I said to you, I have formulated those questions on those days when I have been present at the committee.

The Hon. AMANDA FAZIO: Thanks for your evasion to that.

(The witnesses withdrew)

(Luncheon Adjournment)

ANTHONY JOHN ROBERTS, member for Lane Cove, Parliament House, Sydney, before the Committee:

CHAIR: You are appearing in your capacity as member and at the invitation of the Committee today?

Mr ANTHONY ROBERTS: Yes, Madam Chair.

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

Mr ANTHONY ROBERTS: 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, please indicate that fact and the Committee will consider your request.

Mr ANTHONY ROBERTS: Thank you.

CHAIR: Mr Roberts, do you wish to make a statement at the outset?

Mr ANTHONY ROBERTS: Yes, I do.

CHAIR: If you could proceed to give that to the Committee?

Mr ANTHONY ROBERTS: Thank you. I thank the Committee for extending an invitation for me to appear before it in respect of the investigation into the corrupt process which led to hundreds of decent people being put out of work and 60 small businesses being sent to the wall, otherwise known as the Orange Grove scandal. If through my appearance today I can assist in getting justice for those people then I am grateful for the opportunity. I am disappointed that Government members and Ministers do not feel the same sense of duty to do the right thing for those people. Bob Carr, in order to take attention away from his knowledge of and involvement in Orange Grove, has made numerous false claims about me in respect of Orange Grove and factory outlets proponent Gazcorp. Unlike Mr Carr, who refuses to appear before this Committee, I am more than happy to set the record straight. I've not at any stage lobbied on behalf of the proponent of Orange Grove. I have never had any meetings with, nor sought any meetings with, Assistant Planning Minister, Diane Beamer, about the Orange Grove matter.

As I've stated publicly before, I delivered some sealed documents, which I was told contained legal advice, to Ms Beamer's Parliament House office on 6 April in what was a simple delivery request. I did this as my electorate office is in the same building as that of Gazcorp. I did not choose to have my office in a Gazcorp-owned building. The lease was in place before I became the member for Lane Cove. The lease is between the owner of the building and Parliament. My relationship with the Gazals was, and has been, one of a professional nature carrying out my duties as a member of Parliament. Having first met with Mr Gazal approximately 12 months ago, I've had intermittent contact as one would normally expect from sharing a building. The only formal member of Parliament-citizen meeting was on 12 July 2004 when evidence of alleged corruption by the State Government was brought to me. This resulted in me contacting Commissioner Moss of the ICAC immediately. The follow up from this was on 3 September 2004 when I met with officers of the ICAC at my Lane Cove electorate office to assist them with the Orange Grove complaint.

It was the appropriate course of action to take, and I took that action immediately upon sighting documentation in support of the allegations that had been made to me by Mr Nabil Gazal. I also wish to state again publicly my past relationship with Flagship Communications. I commenced as a director of that company on 17 December 2002. I resigned as a director on 29 January 2003, a period of around seven weeks, and this was formally noted by ASIC on 14 February 2003. I wish to emphasise that during this period and for some time after Flagship Communications was not even trading as a company. Neither the Gazal family or their companies or Flagship Communications have ever made any financial or any other contributions to me as an individual or in my capacity as the member for Lane Cove.

I can categorically state also that I never ever sought any contribution from them. Since becoming the member for Lane Cove my office and I have had intermittent contact with the Gazals in their capacity as landlord of the building in which my office is situated, and also for advice on public relations support for which they were given a number of names of firms by one of my staff—not by me, one of my staff. I was not aware of this appointment or the fact that Flagship was approached until after the event occurred. On 14 September I was one of a number of speakers participating in the debate moved by the Leader of the Opposition in relation to Orange Grove. I considered it important that the up-to-date position be presented in the debate, and I sought from Flagship Communications, as representatives of Gazcorp, their advice on the present position at that time.

That afternoon the Premier, in a deliberate misrepresentation, sought to pretend that my comments were some sort of cash for comment. There was no cash. There was only up-to-date advice for Parliament of the views of a group of people fighting to save the jobs of 450 Australians. That same afternoon I made a personal explanation to the House principally rebutting the Premier. Since then the Premier has repeated the allegations, always under parliamentary privilege. On each occasion I have rebutted these allegations. It is important to restate that I've never ever lobbied anyone on behalf of the Gazals. And when I became aware of documentation to support allegations of improper practice surrounding the Orange Grove rezoning process I immediately referred the matter to the Independent Commission Against Corruption. In fact, I contacted Commissioner Moss directly and immediately when the allegations of corruption were brought before me. This was my duty as a citizen. This was my duty as a member of Parliament. This duty I have discharged.

CHAIR: Thank you, Mr Roberts. Are there any questions?

The Hon. AMANDA FAZIO: Thank you, Madam Chair. Mr Roberts, on September 2, 2004 you spoke in Parliament in support of the Opposition's special legislation for Nabil Gazal's development. You understand this was special legislation to benefit just one developer and one development, and that was Nabil Gazal? You understand that, don't you?

Mr ANTHONY ROBERTS: No, that's not correct.

CHAIR: So you did not believe that that legislation was going to benefit Nabil Gazal?

Mr ANTHONY ROBERTS: I refer back to my opening statement, Madam Chair, and that is that that legislation was directly to support 450 people who were going to lose their jobs because of what was seen as, allegedly, improper conduct by this Government. These are 450 people who live in one of the highest unemployment areas, in fact I think it is the highest unemployment area in the Commonwealth. I spoke on that, and can I—I would like to table some letters here. In fact, I will read some and that is, the first one is from Marcia Kotopoulos and it's "To whom it may concern":

My name is Mrs Marcia Kotopoulos and I work in suite 62, shop 29, designer outlets at Liverpool. I'm upset about not only the pending closure of the outlets but losing my job. I've just built a new house and taken out a mortgage, which both my husband and I must contribute to pay off. I have two children to support and school fees to pay, not to mention I also help my parents who are no longer working and cannot afford to live on just the pension. My father recently had a stroke and I contribute to his medication. All these events have affected me personally, emotionally and, most of all, financially. Since starting the job at designer outlets I love coming to work here. Not only is it close to home, but everyone knows each other. You come to work and you always get a smile and a "Good morning". But not now. I can see it in people's faces this problem is affecting them. I don't understand. We need something like the designer outlets in the West where we have an extremely high unemployment rate. I'm at the age now where I'm happy with life, my family, my work. Why doesn't Mr Latham or Bob Carr, who, incidentally, have time to be on the Kerrie-Anne Kennerley show cooking, come down and see us and give us a valid reason why he wants to turn my world upside down.

The Hon. AMANDA FAZIO: Well, Mr Roberts—

Mr ANTHONY ROBERTS: There's another letter here.

The Hon. AMANDA FAZIO: No.

Mr ANTHONY ROBERTS: I'm just answering the question, Madam Chair.

The Hon. AMANDA FAZIO: No, you're not answering the question. In fact, I asked you that you understood the special legislation was only to benefit one development.

Mr ANTHONY ROBERTS: I've answered that and that is not correct.

The Hon. AMANDA FAZIO: But it is the save Orange Grove bill, so it was for one development.

Mr ANTHONY ROBERTS: It was to—

The Hon. DAVID OLDFIELD: Point of order: The member has changed what she actually asked. She just said "development". Previous to that the question was "developer". So one can very seriously and quite reasonably understand—

The Hon. AMANDA FAZIO: That's not a point of order, Madam Chair.

The Hon. DAVID OLDFIELD: —that Mr Roberts was answering that he was not, in fact, supporting legislation to assist one developer. But, in fact, as he has pointed out, to support 450 people who were losing their jobs. The member has conveniently changed the word—

The Hon. AMANDA FAZIO: To the point of order.

The Hon. DAVID OLDFIELD: —"developer" to now "development" to indicate that he has not answered the question.

The Hon. AMANDA FAZIO: To the point of order, Madam Chair. My first question asked about both one developer and one development, and I am just going back to try and get an answer to the question.

CHAIR: Okay. I think Mr Roberts has actually answered the question.

Mr ANTHONY ROBERTS: I've answered the question.

The Hon. AMANDA FAZIO: Okay. Fine. I'll move on to another question.

CHAIR: Would you like to table those correspondence items?

Mr ANTHONY ROBERTS: Yes. Yes, I would, please.

CHAIR: Is there any personal information in that that we might—

The Hon. AMANDA FAZIO: Perhaps they could be circulated to Committee members before we make a decision.

CHAIR: Yeah. Okay. If you table them we will have a look at them.

The Hon. HENRY TSANG: Madam Chair, can I seek a point of clarification?

CHAIR: Mr Tsang.

The Hon. HENRY TSANG: I seek clarification from Mr Roberts. Basically, in your support in Parliament you never knew that such a support would benefit the developer Nabil Gazal?

Mr ANTHONY ROBERTS: I supported—I am happy to answer that question. I supported the motion in Parliament on behalf of 450 people who were going to lose their jobs and, once again, and I refer back to my opening statement, that it was about protecting 450 people, people who've got lives, Madam Chair, families. These are individuals. I mean, I stood up for them. I'd like to know what certain members of the Government, why they haven't stood up for these 450 people.

The Hon. AMANDA FAZIO: Can I continue with my question Madam Chair?

CHAIR: You may.

The Hon. AMANDA FAZIO: Mr Roberts, did Mr Gazal ask you to advocate in this Parliament on his behalf?

Mr ANTHONY ROBERTS: No.

The Hon. AMANDA FAZIO: If that is the case, why did he send you, or why did Mr Gazal Junior—perhaps I should frame the question more broadly. Did either Mr Gazal Senior or Mr Gazal Junior ask you to advocate in this Parliament on their behalf?

Mr ANTHONY ROBERTS: They did not ask me to advocate on their behalf. I think you are referring to—

The Hon. AMANDA FAZIO: I am referring to a fax that was addressed to you from Nabil Gazal Junior saying, "This is the time line as requested. Thanks." It was addressed to you, giving you a time line of what happened.

Mr ANTHONY ROBERTS: That is correct.

The Hon. AMANDA FAZIO: Why did they give that to you?

Mr ANTHONY ROBERTS: I refer back to my opening statement, Madam Chair, and that is—

The Hon. AMANDA FAZIO: So you are not prepared to say whether they asked you?

Mr ANTHONY ROBERTS: No—and that is that I sought information with respect to bringing the facts to Parliament, up-to-date facts, on behalf of 450 workers and 60 small businesses that had been cut loose by this Government, and I refer again to my opening statement.

The Hon. AMANDA FAZIO: Did either of the Gazals offer you any benefit for advocating on their behalf?

Mr ANTHONY ROBERTS: I refer to my opening statement: (a) I find that—you know, I mean, that might be all right in the ALP.

The Hon. AMANDA FAZIO: That is the point of the question.

Mr ANTHONY ROBERTS: But certainly, no, not at all, and I refer back to my opening statement.

The Hon. AMANDA FAZIO: Did you ask either of the Gazals for anything in return for raising the issue on their behalf in the Parliament?

Mr ANTHONY ROBERTS: No.

The Hon. AMANDA FAZIO: How long have you known Mr Gazal?

Mr ANTHONY ROBERTS: I refer to my opening statement that I have known him for probably about 12 months.

The Hon. AMANDA FAZIO: Has either of the Mr Gazals ever attended any fundraising event for you?

Mr ANTHONY ROBERTS: No.

The Hon. AMANDA FAZIO: Or for the Liberal Party?

Mr ANTHONY ROBERTS: No.

The Hon. AMANDA FAZIO: Has Mr Gazal ever contributed financially to your electorate fundraising?

Mr ANTHONY ROBERTS: No.

The Hon. AMANDA FAZIO: Has Mr Gazal promised to contribute to you or to the Liberal Party in the future?

Mr ANTHONY ROBERTS: No.

The Hon. JOHN RYAN: We have not even asked Mr Gazal for funding.

The Hon. AMANDA FAZIO: Have you asked Mr Gazal to contribute to electorate fundraising or to the Liberal Party?

Mr ANTHONY ROBERTS: No.

The Hon. AMANDA FAZIO: Are you aware of any other occasion when the Liberal Party has sponsored a special Act of Parliament for a single developer?

Mr ANTHONY ROBERTS: I do not think there has been a case where 450 jobs and 60 small businesses—

The Hon. AMANDA FAZIO: No, that was not the question that I asked you.

Mr ANTHONY ROBERTS: No, I am trying to answer the question.

The Hon. AMANDA FAZIO: No, you are trying to paraphrase the question.

Mr ANTHONY ROBERTS: Madam Chair?

CHAIR: If you could let the witness answer the question, please.

The Hon. AMANDA FAZIO: As long as he answers the question and does not really ask a different question.

Mr ANTHONY ROBERTS: I am attempting to.

The Hon. JOHN RYAN: He is answering the question. The question has to be relevant.

The Hon. AMANDA FAZIO: Not you, John Ryan. You are not giving evidence here. I have to keep reminding you of this; Mr Roberts is.

Mr ANTHONY ROBERTS: If I could be allowed to answer the question, Madam Chair?

CHAIR: Please go ahead.

Mr ANTHONY ROBERTS: As I say, I am trying to. I do not think that ever before there has been a case where a government, surrounded by some very murky allegations, has attempted to close down a shopping complex with 450 people—again I refer back to the fact that these are people with families, these are individuals, these are human beings, and because of some alleged grubby deal, they have been thrown out on the scrap heap by this Government. And these people, I do not think many of them have got jobs, you know, since then.

The Hon. AMANDA FAZIO: Okay, Mr Roberts. You have stated that you are a former director of the Liberal PR firm, Flagship Communications.

Mr ANTHONY ROBERTS: I do not think it is a Liberal PR firm.

The Hon. AMANDA FAZIO: Well, that might be your opinion. Do you have any continuing financial association with Flagship?

Mr ANTHONY ROBERTS: I have never had any financial association with Flagship, and I want to make it quite clear. I refer back to my opening statement. I was a director—

The Hon. AMANDA FAZIO: But you said that you were a director.

Mr ANTHONY ROBERTS: Yes, I was a director of a company that was not even trading for seven weeks prior to entering Parliament, and I have had no, you know, sort of financial dealings.

The Hon. AMANDA FAZIO: So you have never received any money from Flagship Communications?

Mr ANTHONY ROBERTS: Nothing at all.

The Hon. AMANDA FAZIO: Okay. You said that you did not introduce Flagship to Mr Gazal; that one of your staff members did that.

Mr ANTHONY ROBERTS: That is correct.

The Hon. AMANDA FAZIO: If you were only a director for seven weeks prior to being elected, why would your staff members think that Flagship would be the appropriate place to refer Mr Gazal?

Mr ANTHONY ROBERTS: I refer back to my opening statement, and the Gazals sought some advice from my staff with respect to who would be able to assist them in getting the news out that 450 people were going to lose their jobs and 60 small businesses were going to go to the wall, and my staff member, I think, gave a number—again, I refer back to my opening statement. I was not aware that Flagship had been approached or appointed until after the event, and it is my understanding that my staff member gave them a list of a number of firms—I must say Hawker Britton was not one of them—but a number of firms. I do not know what occurred after that.

The Hon. AMANDA FAZIO: So you would not be aware of why your staff member was even aware of the existence of Flagship Communications?

Mr ANTHONY ROBERTS: I understand that my staff member certainly knows one of the directors, Jeff Egan, you know, just because I know Jeff.

The Hon. AMANDA FAZIO: Is he a regular visitor to your office?

Mr ANTHONY ROBERTS: No.

The Hon. JOHN RYAN: A bit of a distance.

Mr ANTHONY ROBERTS: Yes.

The Hon. AMANDA FAZIO: So you just think that somehow or other your staff member concocted this list of people or this list of organisations that included Flagship and gave it to the Gazals. Are you happy with your staff providing that sort of advice to constituents about which PR firms they might choose to use or which legal firms they might choose to use?

Mr ANTHONY ROBERTS: In the Legislative Assembly, we have approaches from constituents on a regular basis, asking advice on matters. The protocol in my office is that we show no fear nor favour in giving advice. And as when the individuals, for example, might ask, you know, is there a lawyer or someone that we can assist them with, we always give them a list of names of people. We do not show any favour or any fear in giving that information.

The Hon. AMANDA FAZIO: And that list of names, are they always firms or solicitors that are associated with the Liberal Party?

Mr ANTHONY ROBERTS: No.

The Hon. AMANDA FAZIO: Would you be prepared to table or provide to this Committee the list of names that your staff regularly gives out to people in terms of helping them select PR firms or legal advice?

The Hon. JOHN RYAN: "Regularly"? It is one-off.

Mr ANTHONY ROBERTS: It is not regular. It is not regular at all, and there is no formal list.

The Hon. AMANDA FAZIO: Are you aware of how much Mr Gazal is paying Flagship to run his fairly dishonest political campaign?

Mr ANTHONY ROBERTS: No.

The Hon. DAVID OLDFIELD: Point of order: It is becoming increasingly evident during the course of the Hon. Amanda Fazio's line of questioning that none of this is relevant to the terms of reference. There is no relationship in the terms of reference that relates to whether or not Mr Roberts's staff suggest different companies, be they solicitors, be they PR firms. There is nothing to suggest that Mr Gazal is not allowed to seek such advice. The whole line of questioning could not even vaguely be related as a fishing exercise. The whole line of questioning is completely irrelevant and a waste of time for everybody, Mr Roberts included.

The Hon. AMANDA FAZIO: To the point of order: I think that the line of questioning I am asking is relevant because we have had Mr Roberts give a detailed speech in the Parliament on 2 September about this proposal where he goes into detail about it. On the same day he received a communication from Gazcorp about it. I think the connections between Mr Roberts and Gazcorp and the representations he has made in Parliament, the actions of his staff in referring his landlord, Mr Gazal, to a communications firm with which he has had a previous connection, and whether or not there is any finder's fee or spotter's fee for referring people off to particular companies for assistance or not, are very important issues that go to the campaign that is being run by Mr Gazal and his associates.

They also go to the potential issue of corruption which is an issue that has been bandied about here in many different guises during this inquiry, including allegations of perhaps corrupt behaviour by people in the Liverpool council. You have been more than happy to ventilate your views about ALP branch stacking. I think that finding any business or financial connections between Mr Roberts, who has given a detailed speech on this issue in Parliament on 2 September, and the PR firm that is representing Gazcorp and any potential for kickbacks from that are very, very relevant to this inquiry.

The Hon. DAVID OLDFIELD: Further to the point of order, Madam Chair: In the first instance, Ms Amanda Fazio seems to be overlooking the fact that Gazcorp and Mr Gazal and co. are constituents of Mr Roberts. The fact that they share the same building—it would be, I would think, highly unusual.

The Hon. AMANDA FAZIO: They are not constituents. They live in the eastern suburbs, which you probably well know.

The Hon. DAVID OLDFIELD: They are constituents in relation to their businesses, their premises, their staff and themselves from a working point of view, so they are constituents in that matter and in that manner. I would find it highly unusual that Mr Roberts, given the circumstances of his concern for the 450 jobs and 60 businesses, would not in fact speak out. It would be unusual for him to not take some running in the lower House on this issue, and being a member of the Opposition, with the Opposition's strong approach, even if they were not in any way involved, why would he not? It is all very well for Amanda Fazio to ask questions of "Have you received donations?", "Has he been to Liberal Party functions?", et cetera, et cetera. She has done all of that. She has got all the answers for all of that. Anything else is completely irrelevant. It is arguable that those matters are irrelevant as well.

The Hon. JOHN RYAN: Madam Chair, can I make a contribution to this point of order as well? I have some sympathy for it. However, the witness has not expressed any objection to the line of questioning. Probably, given what is coming out of the questioning, it is in his best interests to allow the question is to be asked with a caveat that they can be brought to a conclusion if they stray outside the terms of reference.

The Hon. AMANDA FAZIO: There, you have been given your riding instructions, Mr Roberts.

The Hon. JOHN RYAN: There are no riding instructions at all. It is just simply that I think that, to date, the questioning has at least allowed the member to clarify a number of allegations that have been made against him—and I would make the point that many of the questions levelled at him have been extremely loaded. Nevertheless, he has been able to clarify his relationship with Gazcorp—the fact that he does not have one.

The Hon. DAVID OLDFIELD: He does not have one.

The Hon. JOHN RYAN: But it is probably in his best interests to allow the line of questioning to go because, to be honest, to terminate it at this point is not in his best interests because then it allows questions to be unresolved which are then asked in other places with regard to this matter.

CHAIR: Yes, I rule that you may proceed, Ms Fazio, and just keep the questions—

The Hon. DAVID OLDFIELD: Pertinent.

CHAIR:—in relation to the terms of reference.

The Hon. DAVID OLDFIELD: Pertinent—keep them pertinent.

The Hon. AMANDA FAZIO: Thank you. Mr Roberts, are you concerned about this wad of briefing material that has been provided to you by Gazal and Flagship Communications, part of which you used as the basis for your speech in the House on 2 September—about how this fell into the hands of the Government?

Mr ANTHONY ROBERTS: I have got nothing to hide.

The Hon. DAVID OLDFIELD: Yes. Unlike your members, including the Premier, he is actually here. Remember that. He is actually here, so he does have nothing to hide.

CHAIR: Order!

The Hon. HENRY TSANG: Chair, can you control the member?

The Hon. AMANDA FAZIO: Mr Roberts—

The Hon. DAVID OLDFIELD: Well, apparently not.

The Hon. AMANDA FAZIO: Mr Roberts, which one of your Liberal colleagues do you think was so offended by the Opposition Leader's and your support for Gazal that they leaked this material to the Government?

Mr ANTHONY ROBERTS: Once again, this is about supporting 450 jobs. Madam Chair, I want to make this quite clear now: On 12 July, when these matters were brought to me, I telephoned Commissioner Moss—and I refer again to my opening statement—I telephoned Commissioner Moss immediately. I spoke to Commissioner Moss immediately on this and the fact that I had serious allegations and evidence of corrupt practices in this State Government, and I passed this on immediately to ICAC, and that was in July. That was in July. I did the right thing whilst the Government was running around, hiding, covering up. I did what Bob Carr did not do, what his chief of staff did not do, what the Minister did not do, when I referred this entire grubby affair to the ICAC.

The Hon. AMANDA FAZIO: Mr Roberts, are you concerned that the documents confirm the closing link that has developed between Gazcorp, Flagship Communications and the Opposition—

Mr ANTHONY ROBERTS: No.

The Hon. AMANDA FAZIO:—and the dishonest campaign that you have been running in Gazal's favour?

Mr ANTHONY ROBERTS: That is not a dishonest campaign.

The Hon. AMANDA FAZIO: How much has Mr Gazal promised to pay the Liberal Party in return for the Opposition's special legislation?

Mr ANTHONY ROBERTS: Look, that is just offensive, to start with. Can I tell you—

The Hon. AMANDA FAZIO: You can give a yes or no answer. You can say nothing, or you can clarify the position instead of just batting off by saying that you think it is offensive.

Mr ANTHONY ROBERTS: I can tell you right now that, certainly to my knowledge, there has been no mention of anything, and there would not be.

The Hon. JOHN RYAN: The only political party he has donated to is yours.

The Hon. AMANDA FAZIO: Have your friends at Flagship been paid a special bonus for the Liberal's special legislation for Gazal?

Mr ANTHONY ROBERTS: Again, I refer to my opening statement, and I do not know.

The Hon. AMANDA FAZIO: You do not know?

Mr ANTHONY ROBERTS: I have no dealings with them.

The Hon. AMANDA FAZIO: No dealings, but your staff are familiar enough to refer Gazcorp to them to be their PR firm.

Mr ANTHONY ROBERTS: I refer to my opening statement again.

The Hon. AMANDA FAZIO: You can refer to your opening statement all you like, but you are simply not answering the questions in any detail. Your answers are doing nothing to clarify the smell, the stench, if I may use Sylvia Hale's favourite words, that surrounds your involvement in this?

The Hon. JOHN RYAN: Point of order, Madam Chair: The House has rules with regard to questions which require members, if asked, to verify the information that they are using. The member said something about special bonuses. I presume she is in a position to verify her information in that regard and that she is not just simply inventing material in order to ventilate allegations that have absolutely no basis—because they certainly sound to me like they have no basis in fact. I must say that the member must also be unaware of the fact that members of the Liberal Party have some pretty strict obligations that are imposed on us by our party organisation with regard to donations and that we do not touch them. It is quite possible that Mr Roberts, if he adheres to those as I do, would be unaware of what donations are made to the Liberal Party until they are declared appropriately and publicly.

The Hon. AMANDA FAZIO: That wasn't the question that I asked. The question I asked was: Have your mates at Flagship been paid a special bonus for the Liberal's special legislation for Gazal?

The Hon. JOHN RYAN: Madam Chair—

CHAIR: Order!

The Hon. AMANDA FAZIO: I wasn't asking if Mr Roberts got a special—

The Hon. JOHN RYAN: The member has made an allegation about somebody's mates being paid a special bonus—

The Hon. AMANDA FAZIO: No.

The Hon. HENRY TSANG: Take a point of order.

The Hon. AMANDA FAZIO: I am asking—

The Hon. JOHN RYAN: Does she have information to verify that?

The Hon. AMANDA FAZIO: That's irrelevant.

The Hon. JOHN RYAN: It is not irrelevant.

The Hon. AMANDA FAZIO: I am asking—

CHAIR: Order!

The Hon. JOHN RYAN: You know that there's a requirement. I ask the member to verify—

The Hon. AMANDA FAZIO: if they are being paid something.

The Hon. JOHN RYAN: the statement that she is making before—

The Hon. AMANDA FAZIO: I'm not making a statement.

The Hon. JOHN RYAN: You are.

The Hon. AMANDA FAZIO: I'm asking a question.

The Hon. JOHN RYAN: You are making an allegation.

The Hon. AMANDA FAZIO: I'm asking a question.

The Hon. JOHN RYAN: Do you have anything on which to verify it? If so, what?

CHAIR: Ms Fazio, I would ask you not to make imputations against the witness.

The Hon. AMANDA FAZIO: I'm not.

CHAIR: He may not have any knowledge of that matter and I think he has already said that.

The Hon. HENRY TSANG: He can clarify for himself.

The Hon. AMANDA FAZIO: Well, he can say that he has no knowledge—which he hasn't done so far.

The Hon. DAVID OLDFIELD: We would like to know what knowledge you have of it seeing as you are making allegations.

The Hon. AMANDA FAZIO: I'm asking; I'm asking a question: Do your friends at Flagship, have they been paid a special bonus for the Liberal's special legislation for Gazal?

Mr ANTHONY ROBERTS: I wouldn't be aware of it.

The Hon. AMANDA FAZIO: Fine. Thank you for finally giving me a straight answer to what was a pretty plain question. Mr Roberts, will you get any benefit from Flagship Communications for advocating in the Parliament on Gazal's behalf?

Mr ANTHONY ROBERTS: I've made it quite clear—and I'll go back to my opening statement; I am happy to read the opening statement again; we seem to be going through this—that my past relationship with Flagship Communications was when I commenced as a director of the company on the 17th of December 2002. I resigned approximately seven weeks later on about the 29th of January 2003. It was formally noted by ASIC on the 14th of February. I want to emphasise again that during this period, and for some time after that, the company was not even trading. Neither the Gazal family or the company Flagship Communications have ever made any financial or any other contribution to me as an individual or in my capacity as the member for Lane Cove. I can categorically state that I have also never sought any contribution from them, nor would I in the future. I don't intend—this is all about 450 jobs. That was my fight: to fight for 450 jobs and 60 small

businesses. I wouldn't like at any time in the future any cloud to hang over that. This is about people; it's about lives—lives that have been ruined in south-western Sydney.

The Hon. DAVID OLDFIELD: You can understand the Labor Party not understanding that because they fight for pay-offs, you see.

The Hon. AMANDA FAZIO: This is also about—

The Hon. DAVID OLDFIELD: They fight for the pay-offs, not the jobs. So you can understand why they wouldn't understand, wouldn't you?

CHAIR: Order! Ms Fazio, have you got any further questions?

The Hon. HENRY TSANG: Chair, can you stop this private conversation between a Committee member?

CHAIR: Have you got a further question, Ms Fazio?

The Hon. AMANDA FAZIO: Yes, I have.

The Hon. DAVID OLDFIELD: Don't consider it private, Henry. Consider that I was speaking to you as well, if you like.

The Hon. HENRY TSANG: You should speak through the Chair.

CHAIR: Order! Ms Fazio has got the call.

The Hon. DAVID OLDFIELD: I will speak that way if you like.

The Hon. AMANDA FAZIO: Thank you.

The Hon. DAVID OLDFIELD: Don't feel left out, Henry.

The Hon. AMANDA FAZIO: Mr Roberts, I'm still concerned about the issue of your staff coincidentally referring Mr Gazal and his concerns to the PR company that you were formerly a director of. There are certain guidelines that members of Parliament have to abide by. There's also the issue of being seen to be acting in a fair manner. Do you think that it is appropriate that your staff happily refer people off to a PR company run by friends of yours and of which you were formerly a director to give them some financial gain when they come to you as both the tenant and as a member of Parliament making representations—that you refer them off to your friends to make some financial gain out of it?

The Hon. JOHN RYAN: The lawyer who has been doing a bit of work on behalf of the Labor Party has been getting a bit of business out of this Committee.

The Hon. DAVID OLDFIELD: Yeah, I bet. The same one they have as a defence lawyer.

Ms SYLVIA HALE: What's his name?

The Hon. DAVID OLDFIELD: McCarthy.

The Hon. AMANDA FAZIO: I've asked a question, I'd like an answer.

CHAIR: Order!

Mr ANTHONY ROBERTS: This is about fighting for—

The Hon. AMANDA FAZIO: No, this is about—

Mr ANTHONY ROBERTS: I'm answering the question, Madam Chair. This is all about fighting for 450 jobs and I think—

The Hon. AMANDA FAZIO: That wasn't the question I asked you.

Mr ANTHONY ROBERTS: I would refer it again to the ICAC. I would certainly be happy to—

The Hon. AMANDA FAZIO: I'll keep asking this question until you give me an answer that's relevant.

Mr ANTHONY ROBERTS: Okay. I'm not concerned.

The Hon. AMANDA FAZIO: You're not concerned about that. So you think that's fine.

Mr ANTHONY ROBERTS: No, it was not my decision.

The Hon. AMANDA FAZIO: It wasn't your decision. So what do you do in your office if you don't deal with things like finding out if your staff are referring constituents off to have work done for them by friends of yours? The connection is a bit cosy, isn't it?

Mr ANTHONY ROBERTS: I fought for 450 jobs. What have you done?

The Hon. AMANDA FAZIO: What have I done? I tell you what, I haven't referred people—constituents—off to friends of mine to get work done for them. That's what—

The Hon. DAVID OLDFIELD: Why? Wasn't there anything in it for you? Is that why you haven't done it?

CHAIR: Order!

The Hon. DAVID OLDFIELD: Are there no pay-offs for you, Amanda?

CHAIR: Order!

The Hon. AMANDA FAZIO: No, because I've got an understanding of what is proper behaviour and what isn't in terms of being a member of Parliament.

CHAIR: Okay. Order!

The Hon. DAVID OLDFIELD: Not from what I've seen during the course of this Committee. All you're doing is wasting everybody's time—

The Hon. AMANDA FAZIO: It's not your place to make a comment like that.

CHAIR: Order!

The Hon. DAVID OLDFIELD: by trying to make a whole series of allegations that are irrelevant.

CHAIR: Order! Mr Oldfield

The Hon. AMANDA FAZIO: Your comments are irrelevant.

CHAIR: Amanda, have you got a further question?

The Hon. AMANDA FAZIO: I would like an answer from Mr Roberts about the propriety of his staff referring constituents off to have paid work done for them by a firm the directors of which are friends of his and which he was a former director of.

The Hon. JOHN RYAN: Like every witness in this place has been referred to the Premier's friend Mr John McCarthy, lawyer, who's appeared at this —

The Hon. AMANDA FAZIO: No. Stop cutting in. It's a simple question.

The Hon. JOHN RYAN: I mean, give us a break.

The Hon. AMANDA FAZIO: It's a simple question: I want to know if you believe that in terms of ethical behaviour of a member of Parliament that is adequate.

The Hon. JOHN RYAN: What? The Premier has referred people who come to this Committee to his friend.

CHAIR: Order!

The Hon. AMANDA FAZIO: You are not asking a question. I've asked a question and I want Mr Roberts to give me an answer.

The Hon. JOHN RYAN: His mate. Labor Party lawyer John McCarthy has represented every single public servant who has attended this Committee.

The Hon. AMANDA FAZIO: I want Mr Roberts to give me an answer.

The Hon. DAVID OLDFIELD: I wonder what the kickback to the Premier is.

The Hon. JOHN RYAN: By heaven's sake, talk about the pot calling the kettle black.

The Hon. AMANDA FAZIO: Has your behaviour been ethical? That's what I want to know.

The Hon. DAVID OLDFIELD: What's the Premier's kickback for legal referral?

CHAIR: Order!

The Hon. DAVID OLDFIELD: What's the Premier's kickback for legal referral?

CHAIR: Order! Mr Oldfield!

The Hon. AMANDA FAZIO: That's irrelevant. I've asked a question and I want an answer.

The Hon. DAVID OLDFIELD: It's irrelevant, is it?

CHAIR: Has Mr Roberts got any further answer to that?

Mr ANTHONY ROBERTS: Throughout this entire process to save 450 jobs I have at all times acted in an ethical manner, an open manner and a transparent manner. I'm here before this Committee today because I have nothing to hide. I have been personally attacked and vilified by the Premier in the House for my position saving 450 jobs and 60 small businesses and I am happy to appear before this Committee because I have nothing to hide.

The Hon. AMANDA FAZIO: You say you support things being open and transparent, Mr Roberts. When your staff member referred Gazcorp to Flagship Communications did they provide any disclosure? Did they say, "Oh, by the way, Flagship Communications, did you know that Mr Roberts was a former director of that"? Did they inform them of that or were they silent on that matter?

Mr ANTHONY ROBERTS: I refer to my statement.

The Hon. AMANDA FAZIO: Your statement didn't cover that issue.

Mr ANTHONY ROBERTS: My statement covered the issue of—

The Hon. AMANDA FAZIO: No, it didn't. It didn't cover it.

CHAIR: Mr Roberts, have you got a spare copy of the statement?

Mr ANTHONY ROBERTS: I will supply one to the Committee following this.

CHAIR: Okay. It might save members a few questions.

The Hon. HENRY TSANG: Can I ask a question?

Mr ANTHONY ROBERTS: I'm happy to read it again for honourable members.

The Hon. HENRY TSANG: Can I ask a question, Chair?

CHAIR: If you want interrupt the other Government member, you may.

The Hon. HENRY TSANG: May I?

The Hon. AMANDA FAZIO: Yes.

The Hon. HENRY TSANG: Mr Roberts, can you assure this Committee that at no time you were aware that, should the Opposition's special legislation go through, it would mean millions of dollars for Nabil Gazal?

Mr ANTHONY ROBERTS: My only concern—and I'm happy to answer that—

The Hon. HENRY TSANG: Are you aware or not aware that he would get millions of dollars?

Mr ANTHONY ROBERTS: My only concern at all times—

The Hon. DAVID OLDFIELD: How's that?

The Hon. JOHN RYAN: Prove it!

The Hon. HENRY TSANG: I'm just asking whether he is aware or not.

The Hon. DAVID OLDFIELD: What's the basis of your question?

The Hon. JOHN RYAN: You're making an assumption that he would get millions of dollars.

The Hon. DAVID OLDFIELD: What's the basis of your question?

The Hon. JOHN RYAN: That's an assumption without any basis at all.

CHAIR: Order!

The Hon. JOHN RYAN: I mean, were you aware when you supported legislation to give hoteliers poker machines that that was going to benefit—

The Hon. AMANDA FAZIO: That's got nothing to do with what—

The Hon. JOHN RYAN: dozens of individuals who closely support the Labor Party with millions of dollars?

The Hon. AMANDA FAZIO: Madam Chair, can you control Mr Ryan? He doesn't have the call.

CHAIR: Order!

The Hon. JOHN RYAN: Were you aware of that when you voted for that legislation?

The Hon. AMANDA FAZIO: Madam Chair—

The Hon. HENRY TSANG: If I was not I would say no.

The Hon. JOHN RYAN: Oh, would you have? I'm sure you would.

The Hon. HENRY TSANG: It's for him to answer whether he is aware or not aware.

CHAIR: Okay. Mr Roberts.

Mr ANTHONY ROBERTS: That was of no concern to me. My concern at all times—and I tabled those letters from people who have now lost their jobs; people with families—was that 450 of my fellow Australians, people that live in the same city that I live in, were going to lose their jobs. Read those letters. These are people that have dependents. These are people that in some cases will never get another job in their lives. That's what my concern was.

The Hon. AMANDA FAZIO: Mr Roberts, I still haven't received an answer to my earlier question. Did your staff, when they referred Gazcorp to Flagship Communications to run their PR campaign against the closure of the Orange Grove centre, disclose to Gazcorp your previous connection with Flagship Communications?

Mr ANTHONY ROBERTS: I am unaware of that. All I know is that they supplied a number of firms that deal with these matters to Gazcorp. I wasn't even aware that Flagship had been appointed until after the event. As to disclosing any relationship, I have never received—and I refer to my opening statement—any benefit from Flagship Communications. I was a director for seven weeks before I entered Parliament of a company that wasn't even trading.

The Hon. AMANDA FAZIO: Well, why did they even bother appointing you to be a director for seven weeks if they weren't trading? What was the point of that?

The Hon. JOHN RYAN: He might have had a business life that was independent of him being a member of Parliament.

The Hon. AMANDA FAZIO: All I am trying to establish is, if your staff acted in good faith, would you be prepared to provide to this Committee the list of PR firms that they submitted to Gazcorp?

Mr ANTHONY ROBERTS: I would be more than happy to speak to my staff and provide that list.

The Hon. AMANDA FAZIO: Thank you. At the same time, would you mind asking them if they made any disclosure to Gazcorp about your previous relationship with Flagship Communications?

Mr ANTHONY ROBERTS: I don't think that's relevant.

The Hon. AMANDA FAZIO: Well I do and I would like you to provide that information.

CHAIR: Any further questions?

The Hon. JOHN RYAN: Madam Chair.

CHAIR: Mr Ryan.

The Hon. JOHN RYAN: Did you have anything to do with establishing the lease for your electorate office in the building owned by Gazcorp on Victoria Road?

Mr ANTHONY ROBERTS: No. I inherited the office from my predecessor, the former member for Lane Cove. In fact, we've been trying to move out of that office now for it must be within three months of being elected and moving in there. It's not a terribly accessible office and I have certainly been trying through Parliament to move to another office within the electorate that is more accessible.

The Hon. JOHN RYAN: Were you given any reason as to why you couldn't move?

Mr ANTHONY ROBERTS: Basically, it's because of funding. There's a lack of funding at the moment to move offices.

The Hon. JOHN RYAN: Have you made any representations to the Speaker with regard to the lease?

Mr ANTHONY ROBERTS: Only with respect to moving offices.

The Hon. JOHN RYAN: Thank you, Madam Chair.

CHAIR: Okay. If there are no further questions—

The Hon. AMANDA FAZIO: No.

CHAIR: Thank you very much, Mr Roberts, for your assistance here today.

Mr ANTHONY ROBERTS: I appreciate the time and I hope that this has clarified those issues. I thank the Committee members very much.

The Hon. JOHN RYAN: Thank you. It's a pity the member for Fairfield didn't do the same.

The Hon. DAVID OLDFIELD: And the member for Coogee.

CHAIR: If you could just leave a copy of the statement.

The Hon. DAVID OLDFIELD: And Macquarie Fields.

Ms SYLVIA HALE: Maroubra.

Mr ANTHONY ROBERTS: Thank you very much.

The Hon. JOHN RYAN: Madam Chair, can I suggest that Mr Roberts's statement be made a public document?

The Hon. AMANDA FAZIO: After we've had a chance to have a look at it, thank you.

The Hon. JOHN RYAN: I have to say that has been procedure we have not observed for any of the Premier's staff or the ministerial staff or anyone from Westfield. I'm happy to do it but I just point out that that's not what has been done—

The Hon. AMANDA FAZIO: There was no problem this morning.

The Hon. JOHN RYAN: No, no, You—

The Hon. AMANDA FAZIO: We asked to have a chance to have a look at Mr Brogden's statement before it was made public.

The Hon. JOHN RYAN: We didn't do it for Mr Wedderburn's—

The Hon. AMANDA FAZIO: We had five minutes to have a look at it—

The Hon. JOHN RYAN: We didn't do it for Mr Meagher's—

The Hon. AMANDA FAZIO: and it was made public.

The Hon. JOHN RYAN: We didn't do it for Mr Ferrer.

The Hon. AMANDA FAZIO: So I don't know what you're complaining about now.

The Hon. JOHN RYAN: We didn't do it for Mr Ryan's. We did it for none of those people.

The Hon. AMANDA FAZIO: Well, if I had been there on those occasions we certainly would have.

The Hon. JOHN RYAN: No, you were here.

The Hon. AMANDA FAZIO: I wasn't.

The Hon. JOHN RYAN: You were here.

CHAIR: I suggest that we look at the document during the 15-minute adjournment and then we will publish it afterwards. We will adjournment until three o'clock for our next witness. Thank you.

(Short adjournment)

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

The Hon. HENRY TSANG: Mr Gazal, how many of your former tenants have commenced legal or other proceedings against you and your company for failing to provide adequate disclosure of the court action against your illegal development?

Mr GAZAL SNR: Is it relevant to the inquiry?

The Hon. HENRY TSANG: I would suggest it is.

Mr GAZAL SNR: I am not asking you. I am asking the Chair.

CHAIR: Mr Gazal, I think we are probably going over old territory but those types of questions have been asked before and I have ruled that they are within the terms of reference.

Mr GAZAL SNR: Until now there are two tenants which we took action against for default on the leases, and one of them took action. Exactly two tenants took action only, and two are threatening to take action. In total there is four. Two already took action. They went to the tribunal—not even action, they went to the tribunal, we took them to the tribunal, and two are now threatening to take action. They wrote us letters two days ago. In total, 4 out of 63.

The Hon. HENRY TSANG: Mr Gazal, are you aware that your own lawyer, Mr D'Agostino, has said that there were at least a dozen former tenants engaged in action against Gazcorp?

Mr GAZAL SNR: I am not aware of that. I am aware of four actions—two we took and two they are taking action against us.

The Hon. HENRY TSANG: Are you aware that your own lawyer, Mr D'Agostino, has contradicted your statement to this Committee that tenants were warned in writing?

Mr GAZAL SNR: You want to ask him, I do not. My statement is that they were warned.

The Hon. JOHN RYAN: Point of order: It is my recollection that we had some hearings with Mr D'Agostino in camera. I do not know whether we ultimately elected to make the content of those hearings public. If we have not, I am a bit concerned that the honourable member's question may be drawing from material that was in camera. Could you find out whether that is the case?

The Hon. HENRY TSANG: The questions were answered by Mr Gazal.

The Hon. JOHN RYAN: Yes, I know.

CHAIR: Are you going to move on?

The Hon. HENRY TSANG: I will move on with the questions because Mr Gazal has answered those questions I asked.

CHAIR: Okay, fine. If we can just make sure that we are not referring to in-camera evidence.

The Hon. HENRY TSANG: I do not believe it is in-camera evidence.

CHAIR: Okay.

The Hon. HENRY TSANG: Mr Gazal, why have you continually misled this Committee by insisting that all tenants were provided with disclosure statements appended to leases advising tenants of the risk to their investment because of the court case?

Mr GAZAL SNR: Can you repeat, because I do not understand your English?

The Hon. HENRY TSANG: Why have you continually misled this Committee by insisting that all tenants were provided with disclosure statements appended to leases advising tenants of the risk to their investment because of the court case?

Mr GAZAL SNR: I still do not understand your question. Can you put it in simpler terms? It is not a question, there are too many things in it. I want to know which one you want me to answer.

The Hon. HENRY TSANG: The question now is do you insist that all tenants were provided with disclosure statements?

Mr GAZAL SNR: Mostly. Mostly all tenants, yes.

The Hon. HENRY TSANG: And they were appended to the lease?

Mr GAZAL SNR: No.

The Hon. HENRY TSANG: And you have advised all your tenants of the risk to their investment because of the court case?

Mr GAZAL SNR: I do not advise to the risk. I give them a disclosure statement. I wrote them letter. I do not advise them on risk. I am not their lawyer.

The Hon. HENRY TSANG: But you have advised them that there is a court case?

Mr GAZAL SNR: That is not my answer. I told them, I sent them a letter telling them that there is a court case with Westfield. Most of the tenants are aware of that and most of them received the letter.

The Hon. HENRY TSANG: So did you not disclose that your development is likely to be illegal?

Mr GAZAL SNR: I did not know at that time whether it was going to be illegal or not. I disclose there was a court case with Westfield. That is what I disclosed. You are saying it is going to be illegal. I did not know that at that time.

The Hon. HENRY TSANG: Okay, that is fair enough. That has answered the question already.

Mr GAZAL SNR: Thank you.

The Hon. HENRY TSANG: Are you aware that a lawyer from Remo Collections had told the Land and Environment Court that you failed to provide his client with any disclosure statement detailing the risk proposed to his client by the court action? Do you want me to repeat it again?

Mr GAZAL SNR: No. First, I think you are mistaken. It was not in the Land and Environment Court, it was in the Supreme Court. And what he said is not true, because his tenant was advised verbally and in writing.

The Hon. HENRY TSANG: Are you aware that the Australian Retailers Association has been told by many of your former tenants that there was never any disclosure made by you or your company to them about the risks?

Mr GAZAL SNR: I am not aware of what the Retail Association does and I have never heard of them about anything.

The Hon. HENRY TSANG: Are you aware that they only learned the centre was at risk when the courts found that the centre was unlawful in January and again in March?

Mr GAZAL SNR: Who is that? You say "they"?

The Hon. AMANDA FAZIO: The Australian Retailers Association.

Mr GAZAL SNR: They are lying. I never had a contact with the Australian Retailers Association. How would they know anyway?

The Hon. JOHN RYAN: Why should they?

Mr GAZAL SNR: Why should they know? I never had any contact with them. It was none of their business anyway.

The Hon. AMANDA FAZIO: Mr Gazal, you may be aware that the previous witness we had here was Mr Anthony Roberts, the member for Lane Cove?

Mr GAZAL SNR: Yes.

The Hon. AMANDA FAZIO: I just wanted to ask you some questions about evidence he gave. Mr Gazal, what is the nature of your relationship with Mr Anthony Roberts, the member for Lane Cove?

Mr GAZAL SNR: His electoral office is a tenant in my building and I am one of his business constituents.

The Hon. AMANDA FAZIO: Did you ask the member for Lane Cove to advocate the case for your illegal development in Parliament?

Mr GAZAL SNR: I asked the member for Lane Cove to advocate the legal development with Mrs Diane Beamer, to quicken the process.

The Hon. AMANDA FAZIO: How many discussions did you have with Mr Roberts about the case, and what sort of information did you give him to help him put your case forward in Parliament?

Mr GAZAL SNR: Would you phrase your question to tell me that period you wanted?

The Hon. AMANDA FAZIO: Well, say since July this year?

Mr GAZAL SNR: Till what period?

The Hon. AMANDA FAZIO: Till now.

Mr GAZAL SNR: Maybe three times.

The Hon. AMANDA FAZIO: Were they formal meetings?

Mr GAZAL SNR: They were meetings in his office, yes.

The Hon. AMANDA FAZIO: Did you make any offer to Mr Roberts in return for his advocating on your behalf?

Mr GAZAL SNR: No, never.

The Hon. AMANDA FAZIO: Did Mr Roberts ask you to provide him with any benefit for advocating on your behalf?

Mr GAZAL SNR: Pardon?

The Hon. AMANDA FAZIO: Did Mr Roberts ask you to provide him with any benefit for taking up your case in Parliament?

Mr GAZAL SNR: No, he asked for nothing.

The Hon. AMANDA FAZIO: Did Mr Roberts introduce the Liberal PR firm Flagship Communications to you?

Mr GAZAL SNR: No. I asked my son to ask an assistant of Mr Roberts, Mr Simon Frame, to give us some name of a publicist or company to deal with public relations when we knew that the rezoning was refused by Mrs Beamer, and he gave us a few names.

The Hon. AMANDA FAZIO: He gave you a few names?

Mr GAZAL SNR: Yes.

The Hon. AMANDA FAZIO: To pick from?

Mr GAZAL SNR: Yes.

The Hon. AMANDA FAZIO: Out of that list, why did you choose Flagship Communications?

Mr GAZAL SNR: Because they were available straightaway and he came on Saturday when we needed him, Mr Jeff Egan.

The Hon. AMANDA FAZIO: Mr Jeff Egan came to see you on a Saturday?

Mr GAZAL SNR: Yes.

The Hon. AMANDA FAZIO: At your offices in Lane Cove?

Mr GAZAL SNR: At our office, yes. We rang him on a Friday and he came on the Saturday. We asked him, we wanted to see who was the most available.

The Hon. AMANDA FAZIO: That was your only determining criterion?

Mr GAZAL SNR: Basically yes. We knew nobody else.

The Hon. AMANDA FAZIO: Mr Gazal, how many times have you met with the Opposition Leader and his staff?

Mr GAZAL SNR: With who?

The Hon. AMANDA FAZIO: John Brogden and his staff.

Mr GAZAL SNR: Never.

The Hon. AMANDA FAZIO: You have never met with John Brogden?

Mr GAZAL SNR: Never, until I met him once at the centre when he came with John Lewis. I cannot recall the date but you can find the date when he went with John Lewis to the centre. That is the first time I met and shook hands with John Brogden. I have never met him before.

The Hon. AMANDA FAZIO: Have any of your staff at Gazcorp met with him?

Mr GAZAL SNR: No, never.

The Hon. AMANDA FAZIO: Have you or any employees of Gazcorp met with any of his staff?

Mr GAZAL SNR: No, never. I met with one of his staff in the inquiry only here somewhere. I did not know he was a member of his staff until he told me he is a staffer of John Brogden.

The Hon. AMANDA FAZIO: Did you suggest to Mr Brogden that he ought to draft special legislation to retrospectively approve your development?

Mr GAZAL SNR: Pardon?

The Hon. AMANDA FAZIO: Did you suggest to Mr Brogden that he draft the Save Orange Grove Bill?

Mr GAZAL SNR: Did I what?

The Hon. AMANDA FAZIO: Did you suggest to Mr Brogden that he draft the Save Orange Grove Bill?

Mr GAZAL SNR: No, definitely not.

The Hon. AMANDA FAZIO: Did you suggest that to any other Liberal members of Parliament or their staff?

Mr GAZAL SNR: No, I never knew of this idea. I never thought of it. I do not know about it.

The Hon. JOHN RYAN: That was my job. I was the shadow Minister for Western Sydney.

The Hon. AMANDA FAZIO: Did Mr Brogden, any other members of staff, or any Liberal members of Parliament suggest to you that it was a good idea and that they were going to do it?

Mr GAZAL SNR: No, I just heard about it, I think through John Ryan. I think you told me about it. I cannot remember who, but I just heard about it when they decided to do it.

The Hon. AMANDA FAZIO: Have you had many meetings with Mr Ryan about the Orange Grove project?

Mr GAZAL SNR: No. Before or after the inquiry?

The Hon. AMANDA FAZIO: Since July.

The Hon. JOHN RYAN: None.

The Hon. AMANDA FAZIO: I am not asking you; I am asking Mr Gazal.

The Hon. JOHN RYAN: I never knew him before.

Mr GAZAL SNR: I never met him, to be honest with you, until I saw him giving a speech outside the rally and I never knew who he was. Then I met him here.

The Hon. AMANDA FAZIO: So have your meetings with Mr Ryan been confined to—

Mr GAZAL SNR: I never had a meeting with Mr Ryan.

The Hon. AMANDA FAZIO: You never had a formal meeting with him?

Mr GAZAL SNR: No, never.

The Hon. AMANDA FAZIO: None of your staff have had a formal meeting with Mr Ryan?

Mr GAZAL SNR: No, none of my staff had a meeting with Mr Ryan. I had talked with Mr Ryan but I never had a meeting.

The Hon. AMANDA FAZIO: How many times have you had these talks with Mr Ryan?

Mr GAZAL SNR: A few times. I took the phone and I rang and asked him something.

The Hon. JOHN RYAN: What of it? I talk to my constituents. Is this a problem?

The Hon. AMANDA FAZIO: You are not being asking questions, Mr Ryan.

The Hon. JOHN RYAN: No, but you are inferring that he and I are doing something improper by talking about matters which have been before the Parliament for months.

The Hon. AMANDA FAZIO: I did not raise the issue of any improper conduct. You raised it, not me.

The Hon. JOHN RYAN: You are making inferences about my conduct.

The Hon. AMANDA FAZIO: You must be feeling guilty because I have not made any inferences.

The Hon. JOHN RYAN: Yes, you have.

The Hon. AMANDA FAZIO: Just turn off your microphone and stop talking. I have the call if you do not mind.

CHAIR: Order! Just keep asking questions.

The Hon. AMANDA FAZIO: Mr Gazal, have you offered to reward the Liberal Party for drafting the special legislation on Orange Grove?

Mr GAZAL SNR: It never came to my mind. I never thought of it. I never mentioned it.

The Hon. JOHN RYAN: Nor have we asked.

The Hon. AMANDA FAZIO: Are you aware that the former planning manager at Liverpool council, Chris Weston, told the Committee your development should never have been approved?

Mr GAZAL SNR: I was aware when he spoke after the Committee hearing, yes, and not before.

The Hon. AMANDA FAZIO: Are you aware that Chris Weston wrote a memorandum on 6 June 2002 telling his superior, Gerard Turrisi, that the project was outside the local environmental plan [LEP] and should not be approved?

Mr GAZAL SNR: I was not aware of that until it became public.

The Hon. AMANDA FAZIO: Are you aware that Mr Weston told Mr Turrisi in that memo that there was no way that approval could be given to your project within two weeks?

Mr GAZAL SNR: I told you I was aware of it when it become became public. You are asking silly questions.

The Hon. AMANDA FAZIO: That is okay.

Mr GAZAL SNR: You want to waste my time and the people's time, or waste the public money.

The Hon. AMANDA FAZIO: I am sure that a lot of people's opinions at a lot of these hearings—

Mr GAZAL SNR: Maybe it is because you are not very happy with the result of the election.

The Hon. AMANDA FAZIO: I am quite happy with the election result. We actually picked up a few seats in New South Wales.

Mr GAZAL SNR: You are happy with Mark Latham falling on his face, or maybe the 50 spin doctors who are helping you to ask these questions? They have nothing else to ask.

CHAIR: Order!

The Hon. AMANDA FAZIO: Mr Gazal, I am asking you questions.

Mr GAZAL SNR: It is silly to waste the public's money and my time.

The Hon. AMANDA FAZIO: Why did you ask council to approve your project within two weeks?

Mr GAZAL SNR: Sorry, what?

The Hon. AMANDA FAZIO: Why did you ask council to approve your project within two weeks?

Mr GAZAL SNR: I never asked the council anything. I put in an application for development.

The Hon. AMANDA FAZIO: We might turn to some of your other dealings with Liverpool council. Mr Gazal, have you or Mr Mosca or anyone else on your behalf ever threatened Liverpool council with legal action if it failed in all of its attempts to keep the Orange Grove centre open?

Mr GAZAL SNR: Never.

The Hon. AMANDA FAZIO: Never? Where did the idea come, if not from you, that Liverpool council would be sued for \$40 million if the Orange Grove centre had to close?

Mr GAZAL SNR: No, the idea was that the damages would be worth \$40 million, not that council will be sued. We did not know if we had a case at that time. We did not even discuss it with our lawyer because we thought it was a fait accompli. The rezoning was happening. The council approved the rezoning, they proposed it and they recommended it to the Department of Planning. But we did not know that Mr Carr was in the pocket of Mr Frank Lowy. When Mr Frank Lowy became aware of the development, things have changed. Westfield put seven or eight submissions to the council and to the Department of Planning. They were all addressed and refuted, until Mr Frank Lowy decided to call his mate Mr Carr and tell him to screw the rezoning. This is when it all happened and it became illegal.

The Hon. AMANDA FAZIO: Mr Gazal, before the council made its decision on 8 December 2003 to amend the LEP for your development and the Cross Roads development, did you or anyone on your behalf ever discuss amending the LEP in your favour?

Mr GAZAL SNR: No, never. I never discussed this with anybody.

The Hon. AMANDA FAZIO: With no-one?

Mr GAZAL SNR: With no-one.

The Hon. AMANDA FAZIO: No-one from the council or no former council employees?

Mr GAZAL SNR: No-one. I never spoke to the council during the whole period, except to guys from the council regarding a different matter.

The Hon. AMANDA FAZIO: Okay. I go back to the line of questioning I was following before in relation to the development approval [DA]. The development approval was lodged formally with the council on 6 June 2002. You said you did not ask for the application to be approved within two weeks. Did Mr Mosca ask Mr Turrisi to process your application in two weeks?

Mr GAZAL SNR: I was not aware of that.

The Hon. AMANDA FAZIO: If you or Mr Mosca—

Mr GAZAL SNR: For your own information it was not started on 6 June. The first application was long before that.

The Hon. AMANDA FAZIO: Yes, but the application that was approved by the council was lodged on 6 June.

Mr GAZAL SNR: Yes, I know that application. You are right.

The Hon. AMANDA FAZIO: If you or Mr Mosca did not ask Mr Turrisi to fast track the DA, why did Mr Turrisi request that that happen in the council? Why did he go to another planner and say, "I want this approved in two weeks?"

Mr GAZAL SNR: You can ask Mr Turrisi. I cannot answer for him.

The Hon. AMANDA FAZIO: Did it not strike you as highly suspicious that a DA for something as unusual a factory outlet centre could be approved by council in the record time of two weeks?

Mr GAZAL SNR: I think the council was lazy. The application took from June to November. If in your opinion it is two weeks you need to go and learn how to count again.

The Hon. AMANDA FAZIO: We can do without your rudeness, thanks, Mr Gazal.

Mr GAZAL SNR: I am answering your question. If you cannot add up between June and November you need to be reminded of it.

The Hon. AMANDA FAZIO: Madam Chair, I also ask you to ask the fellow in the blue shirt who is sitting behind Mr Gazal to refrain from commenting. It is inappropriate behaviour in one of these inquiries.

CHAIR: I did not hear him comment, but people in the gallery cannot participate in the hearing.

Mr GAZAL SNR: They can go and sit elsewhere if they are annoying her.

The Hon. AMANDA FAZIO: Mr Gazal, I want to go back to an issue that I raised with you previously. According to the Hon. Dr Arthur Chesterfield-Evans, MLC, you told him that you knew the DA was outside Liverpool's LEP, but you got an approval anyway, did you not?

Mr GAZAL SNR: Can you repeat please? You made the point last time and I did not understand what you are talking about and I was a bit agitated. I am having a bit of Parkinson's crisis at the moment. Repeat the question.

The Hon. AMANDA FAZIO: According to the Hon. Dr Arthur Chesterfield-Evans, MLC, you told him that you knew the DA was outside the local environmental plan.

Mr GAZAL SNR: Do you remember my answer?

The Hon. AMANDA FAZIO: But you went ahead and you got an approval anyway, did you not? You are just trying it on.

Mr GAZAL SNR: Do you remember my answer?

The Hon. AMANDA FAZIO: No, but you can tell me again.

Mr GAZAL SNR: I will tell you slowly this time. If the Hon. Dr Arthur Chesterfield-Evans said so, he misunderstood me or he is a liar, one of the two. I had a misunderstanding this time because I am a bit cooler. This was my answer and I am sticking to the same answer. I would like to ask your intelligence. Do you think if I knew the DA is illegal I will go and spend \$22 million? I must be a Labor Party stooge if I do that.

The Hon. AMANDA FAZIO: I do not know what your reasoning is for your behaviour. It is not my place to comment.

Mr GAZAL SNR: Do you think I am so stupid to spend \$22.5 million?

CHAIR: Order! We will just stick to questions and answers.

The Hon. AMANDA FAZIO: Thank you, Madam Chair. Mr Gazal, are you also aware that the planner at Liverpool council, Geoff Hunt, who ended up approving the DA, wrote a letter to Frank Mossfield on 13 June 2002 that your application had to strictly comply with the LEP, but it did not, did it?

Mr GAZAL SNR: It was never aware of that until I heard it from Geoff Hunt.

The Hon. JOHN RYAN: Point of order: I think the member might be mistaken. She said Frank Mossfield. I think she means Frank Mosca.

Ms SYLVIA HALE: A Freudian slip.

The Hon. AMANDA FAZIO: I give you that one. If you had been advised by council that your development approval had to strictly comply with the LEP why did you persist in putting forward the proposal that ended up being approved?

Mr GAZAL SNR: I never persisted. I put a proposal and I never heard until they gave me the approval. That is all what I heard. I told you the story before. I went and spent \$22.5 million on this approval. I might have rocks in my head if I knew they were all liars and they were all illegal and they were all Labor Party people. I should have known that. Maybe that is where I went wrong.

The Hon. AMANDA FAZIO: Who knows.

Mr GAZAL SNR: Maybe.

The Hon. AMANDA FAZIO: Do you know a person by the name of Murray Douglas?

Mr GAZAL SNR: Yes, I met with him.

The Hon. AMANDA FAZIO: And you have spoken to him?

Mr GAZAL SNR: Yes, a few times.

The Hon. AMANDA FAZIO: In person or on the phone?

Mr GAZAL SNR: No, in person, and on the phone once or twice.

The Hon. AMANDA FAZIO: Have you ever discussed in the same conversation with Mr Douglas the issues of the Orange Grove development and the negotiations with Liverpool council involving the land in the central business district?

Mr GAZAL SNR: I cannot recall exactly but I definitely discussed because he was introduced to me by Frank Mosca. He had an interest in my land in Scot Street. They wanted to buy a piece of land and they wanted to build a council chamber when they were involved with the Oasis project. That is my extent of dealing with him.

The Hon. AMANDA FAZIO: Are you aware that in a telephone conversation on 12 June 2002 Mr Mosca told Mr Douglas that if the Orange Grove development did not get approved by Liverpool council you would pull out of all negotiations with the council for a new council chambers development?

Mr GAZAL SNR: I was not aware but Mr Mosca is free to say whatever he likes.

The Hon. AMANDA FAZIO: Was that your viewpoint, though? Did you share his view?

Mr GAZAL SNR: At that time I do not know. He did not ask me.

The Hon. AMANDA FAZIO: So you are quite happy that somebody who does project work for you goes ahead and makes a threat like that to council on your behalf?

Mr GAZAL SNR: I do not see why it is a threat. We own the land.

The Hon. JOHN RYAN: Point of order: The member is asking the witness a question which involves an assertion about someone else's comments, comments which have not come before this Committee as evidence and, it would appear from the way in which the witness is answering the questions, comments that he knows nothing about. It could be that he knows nothing about them because they were never made, for example. I think it is unfair that again this line of questioning proceeds without the member, in some way or other, verifying when she asserts that certain facts did happen, that she is able to indicate, at least to the witness if not to the rest of the Committee, how she is able to assert that these events actually happened before she asks him for his response to them.

The Hon. AMANDA FAZIO: To the point of order: The question I asked Mr Gazal was in relation to whether he was happy or not that somebody working for him—that is, Mr Mosca—was making those sorts of comments to Liverpool council. I was asking him for an opinion. I was not asking something that needed to be verified. I do not need a statutory declaration from someone to say it happened. I am asking Mr Gazal about whether he is happy or not for an employee of his to carry on like that.

Mr GAZAL SNR: He is not an employee.

The Hon. JOHN RYAN: To the point of order: The member has in fact assisted me in making the very point that I was trying to make. She asked the witness, "Would you be happy if someone did X on your behalf?" What in fact the member should have said is, "If this behaviour occurred would you have been happy with it?" Therefore the witness would be well aware of the fact that this is a hypothetical question, not a question based on fact. By asking him about events which he may not even know about, structured in the way in which the member is asking, whatever response she gets from the witness will be taken as him somehow or other saying that those events, which she alleged happened, are true when in fact they may not be. So I ask you to request the member that when she asks hypothetical questions she should at least either verify the facts that she is stating in her question or at least let the witness know that it is hypothetical material.

The Hon. DAVID OLDFIELD: Further to the point of order: The Hon. John Ryan has suggested what I was going to with regard to the hypothetical nature of it. There is no indication from the Hon. Amanda Fazio that this is a hypothetical question. She stated it as if it is a matter of fact, which also draws the Committee's attention that Mr Douglas is appearing as a witness shortly after Mr Gazal. And if the honourable member is drawing this matter as being a matter of fact, is that as a result of conversations or coaching that she has been involved in of Mr Douglas prior to his appearance today?

CHAIR: I uphold the point of order. I suggest to the member that she might ask the question in an appropriate way. Also, I think there is an assertion that Mr Mosca was an employee, and I do not think that has been verified either.

The Hon. DAVID OLDFIELD: No, he is not.

CHAIR: So if you could ask the question in the way suggested, that would be appreciated.

The Hon. AMANDA FAZIO: In that case, Mr Gazal, if Mr Mosca had made those comments to Mr Douglas at Liverpool council would you have been happy with him making those comments on behalf of Gazcorp?

Mr GAZAL SNR: Let me tell you something. We bought the land. We paid a lot of millions of dollars for the land. We are free to say what we want to do with it or what we do not want to do with it. If he said it, I am happy with it; if he does not say it, I am happy with it. Mr Mosca can deal on my behalf any time he likes.

The Hon. AMANDA FAZIO: I will go back to your conversations with Mr Douglas. Did you have a conversation with Mr Douglas in exactly the same terms?

Mr GAZAL SNR: No, never.

The Hon. AMANDA FAZIO: Did you threaten to pull out of the memorandum of understanding [MOU] for the council chambers if you did not get approval for Orange Grove?

Mr GAZAL SNR: No, never. The memorandum of understanding was kids' play. I gave it to my solicitor. I have still the bill how much I pay money to study it and he said, "You don't sign such a document. It is amateur's work."

The Hon. AMANDA FAZIO: After you spoke to Mr Douglas about this matter, who else did you or Mr Mosca talk to at the council about it?

Mr GAZAL SNR: About which matters?

The Hon. AMANDA FAZIO: About the memorandum of understanding—

Mr GAZAL SNR: I rang Frank and talked to him, and I rang Mr Douglas. I told him I am not signing it. I suggested a meeting with my lawyer, as my lawyer suggested, and his lawyer. We had a meeting, four of us I think. There was a guy called—I have the paper of my lawyer. We had a meeting, it seems, on 18/7/02, attending conference at Liverpool with Stephen Perry, Mr Douglas and Mr F. Mason. I cannot remember Mr Mason. The meeting took two hours, more than two hours but he charged me for two hours. The meeting was supposed to find a way to sign an agreement with the council, which Mr Murray Douglas was representing. But we told him in no uncertain terms that we are not signing this MOU because it is childish play.

They do not own the land of Westpac, and they want to make a deal to tie my land without owning anything, which was not in my interest. That is why I told although I like them to come to the area and I wanted to do the deal with them but the way they presented it was not right and they were under the control of the Canterbury club. They did not have the right to do anything. We did not even have the right to build for them. Our job was to buy the land and sell it to them. That is why we told Mr Douglas to go himself and buy it from Westpac, and when he secured the land he then came back to us and we negotiated with him. But this did not materialise because the Oasis thing fell through and we never heard of Mr Douglas any more.

The Hon. AMANDA FAZIO: Did you ever speak to the former mayor about these matters?

Mr GAZAL SNR: No, never.

The Hon. AMANDA FAZIO: Did you speak to any other councillors about these matters?

Mr GAZAL SNR: Which matters?

The Hon. AMANDA FAZIO: About the memorandum of understanding—

Mr GAZAL SNR: Scot Street.

The Hon. AMANDA FAZIO:—Scot Street and—

Mr GAZAL SNR: No, nobody else.

The Hon. AMANDA FAZIO: You did not speak to anyone in the council about Scot Street?

Mr GAZAL SNR: No, nobody else in the council.

The Hon. AMANDA FAZIO: That includes former council officers or former general managers as well.

Mr GAZAL SNR: Maybe Sir Frank spoke; I never spoke myself about that, about Scot Street to any of the councillors ever. I know one of them knew about it but I never spoke to them about it. The only people I spoke to were Frank Mosca and Murray Douglas.

The Hon. DAVID OLDFIELD: Earlier today it was disclosed before the Committee that, I believe by memory—I am sure someone will correct me if I am wrong—Mr Steven Lowy told John Brogden that Westfield would fund your tenants taking you to court, that they would pay the legal fees of your tenants taking you to court over the Orange Grove closure. Were you aware of this previously?

Mr GAZAL SNR: No, never. Just heard it on the news.

The Hon. DAVID OLDFIELD: It seems like an incredibly vindictive matter to pursue. Is there something—I will understand if you do not wish to answer this question, and I will respect that—that has personally occurred that would cause the Lowy family to be wanting to pursue you so vehemently?

Mr GAZAL SNR: I really do not know. I used to play cards with Frank Lowy and maybe he made some comment he should not have made in front of me regarding Bob Carr. Maybe he is worried about that, and he is worried that I was disclosing this.

The Hon. DAVID OLDFIELD: What sort of comment did he make about Bob Carr?

Mr GAZAL SNR: Like sometimes a passing comment that he has Bob Carr in his little pocket.

The Hon. AMANDA FAZIO: Point of order: I know that the Hon. David Oldfield has been trying to get this onto the record since this morning.

The Hon. DAVID OLDFIELD: Have I?

The Hon. AMANDA FAZIO: Yes, and he probably has managed it, but the whole point is that it is clearly outside the terms of reference so I would ask you to rule against him.

Ms SYLVIA HALE: To the point of order: The whole point of this inquiry is whether there has been inappropriate intervention by the Premier and other members of the Labor Party to prevent inappropriate intervention in the rezoning process. If Mr Lowy has at any stage told Mr Gazal that he has the Premier in his pocket, I think it extraordinarily germane and relevant to this inquiry. In fact, I think it goes to the very heart of the inquiry.

CHAIR: I agree. There is no point of order.

The Hon. DAVID OLDFIELD: I think everybody got that, Mr Gazal. So you think that there may be some issue over—I am sorry, what were the comments that Mr Lowy made to you while you were playing cards?

Mr GAZAL SNR: It is a while ago but it is in a passing comment. I was talking to him about something—I cannot recall exactly what it was—but the thing stayed in my mind. That is why I never told him about the story of the factory outlet. He mentioned that he has Bob Carr in his little pocket. This is the comment I heard.

Ms SYLVIA HALE: If as you say you have just found out that in fact Westfield or at least Mr Steven Lowy seemed to be prepared to fund legal action by tenants against you, if necessary via the Shopping Centre Council of Australia, from your knowledge and dealings with Mr Lowy and with Westfield over the years, would you say that that was in keeping with their approach to opposition?

Mr GAZAL SNR: Very well keeping with their tactic. If you recall, I witnessed in this Committee that in 1996-97 Mr Lowy offered me half a million dollars to ditch Reading Corporation when I had a deal with them to build the 18 cinemas in my complex in the mega centre. It is not out of character of the Lowys or Westfield to try to demolish people. If you remember, too, recently they paid money to start the neighbourhood group or neighbourhood committee to fight the Arnott biscuits, and they had to go to court and lose and pay \$3 million in compensation to settle the case with the Jack Corporation. It is their tactic. They would like to pay money to anybody to fight other people, to fight competitors. They will go to any lengths.

Ms SYLVIA HALE: So they are quite unscrupulous.

Mr GAZAL SNR: As a matter of fact, my son just told me today—and he told me before but I did not take it very seriously—that he has been told by Katherine Keating, who is a close friend of my children, that she saw Mr Carr in the lobby of the building of the Premier around mid April. She asked Mr Frank Lowy, "What are you doing here?" He said, "I am coming to see the Premier to discuss the centre policy." This in April this year.

Ms Katherine Keating, the daughter of Paul Keating—she works for Craig Knowles at the moment. This is what she came voluntarily and told my son before the thing broke up.

Ms SYLVIA HALE: Which Mr Lowy was she—

Mr GAZAL SNR: She saw Mr Frank Lowy, and she asked him. She said hello to him and he told her he was coming to see Mr Bob Carr to discuss the centre policy. And Mr Carr said he never met Mr Lowy this year. Somebody is not saying the truth. You can ask my son to come back and tell you the story, if you like.

Ms SYLVIA HALE: I certainly would, thank you.

The Hon. JOHN RYAN: I suppose you better tell us which son.

Mr GAZAL SNR: My son, Nabil junior. He is available here if you need him.

Ms SYLVIA HALE: You are not sure of the date of that.

Mr GAZAL SNR: No, not sure. He said early or mid April. Katherine Keating came and told my son voluntarily—he did not ask her—just before the whole thing broke up, that she saw Frank Lowy in the lobby of the building of the Premier's office. She talked to him and he told her he is coming to see the Premier, Bob Carr. If you notice, most of the paper of the department of planning referred to this meeting in mid or early April between Bob Carr and Frank Lowy.

Ms SYLVIA HALE: I think I have the dates correctly but Mr Mark Ryan spoke on the phone with Mr Wedderburn on 16 April and then the actual meeting between Mr Ryan and Mr Wedderburn was on 19 April.

Mr GAZAL SNR: On 19 April, but this was before that.

Ms SYLVIA HALE: This was prior to that?

Mr GAZAL SNR: Prior to 19 April. If you read all the emails and the thing of the department of planning they refer in many emails to the meeting between Frank Lowy and Bob Carr. It is not a coincidence that Miss Katherine Keating, the daughter of Paul Keating, who works for Craig Knowles' office, she came and told my son that she saw Frank Lowy in the lobby and she asked him. He said he was coming to see the Premier to discuss the centre's policy which is the heart of the problem we have. Mr Bob Carr denied ever meeting with Mr Frank Lowy. I think this will prove who is the liar if we can get to the records of the police of the people who visited the building, and the record of the visitors, you will find out that she is lying or Mr Carr is lying: one of the two.

The Hon. AMANDA FAZIO: Or your son could be lying, or you could be?

Mr GAZAL SNR: Could be, either one of us could be lying.

The Hon. JOHN RYAN: Could I just take you through some evidence which I suspect will be helpful to subsequent witnesses? Can you tell us the order in which the matters were raised with Liverpool council in terms of the MOU on Scott Street and the development application for Orange Grove Road? Can you tell us the order in which they were presented or raised by you?

Mr GAZAL SNR: The Orange Grove Road was—I need to really go back to the chronology, I can't remember. I know that I bought the building in Scott Street. I bought the land on 30 November 2001 and we applied for the factory outlets, as the Hon. Amanda Fazio said, in June.

The Hon. JOHN RYAN: I think that was the subsequent DA. Did you not have a prior application?

Mr GAZAL SNR: We had a prior application for bulky goods, yes, in 2001.

The Hon. JOHN RYAN: Was there not a prior application to the council for a variation of use some time around January?

Mr GAZAL SNR: Yes, but I have never cited this application. I have never seen it. This is what Frank Mosca told me, there was an application in January to the council for the variation but the council lost it or didn't agree with it asked Frank Mosca to put in a new application in June.

The Hon. JOHN RYAN: For example, was it ever an option for you to use your premises in Scott Street as an alternate venue for the Orange Grove centre?

Mr GAZAL SNR: Silly, because just to give you an idea, the site in Scott Street is 6,000 square metres. The site in Liverpool is 50,000 square metres. We were going to use it as a small shopping centre and build a residential tower and a commercial tower on it. The site in Scott Street cannot take a factory outlet because it cannot provide 50 or 60 shops or 30 shops and it cannot provide the car park for 1,500 or 1,800 car spaces. Therefore, physically it won't be a good site for a factory outlet and it is in the middle of the city so nobody will come to the city for a factory outlet.

The Hon. JOHN RYAN: It would be possible though if you were going to lose the Orange Grove development to have done perhaps a scaled-down version of the factory outlets on Scott Street?

Mr GAZAL SNR: I don't think it commercially stacks up. I haven't done the exercise because it never occurred in my mind, but it doesn't stack up. It could be possibly done. I will have to work the detail of it but I don't believe out of rule of the thumb it does not stack up because I checked with one of the tenants once, how many tenancies we should have if we do a factory outlets. He said at least 35 to 40. I don't think Scott Street can take this amount of tenants.

The Hon. JOHN RYAN: Were you aware of how important your Scott Street premises were in regard to the proposal generally known as the Oasis development? Were you aware that it might have been a linchpin in moving the council chambers from their current position in Hoxton Park Road to the CBD to release even more land at Woodward Park? Were you aware of that link?

Mr GAZAL SNR: Not really. I thought it is more important for me to get the council there than it is more important for them. We were basically happy to have the council because they are going to have 600 employees and it will make my land in Scott Street very valuable because I will have to build a proper centre and it will support the centre to have 600 or 700 employees. As a matter of fact, it is more important for me for the council to come to Scott Street than it is important for me to have the factory outlet in Scott Street, much more important.

Just for a second, regard this matter. Scott Street, if I could do it without the council, very easily I would have built it by now. I haven't even put a DA yet. We built four or five schemes for them. We did around 20 drawings. My negotiation with the council cost me at least \$50,000 or \$60,000 or, if not, \$100,000 in plans, legal fees. Just for two meetings I paid \$3,000. I have the bill here, just for the MOU. But I realised at the end I am dealing with amateurs. They have no idea what they are doing and they were under the control of the club and they have to own the land. They have to have a company called Adcorp build for them. At the end I said, "Why should I do the development? I buy the land, sell it to you at the same price." They were asking me silly things. They did not even buy the Westpac. I tried to negotiate Westpac for them. I brought it for them to around \$2.2 million. They didn't buy it. The land went for \$3.5 million a year later. They were a bunch of amateurs at the Oasis. They had no idea what they were doing.

The Hon. JOHN RYAN: Might I take you through some issues of which the committee may not be aware. You have some land in Scott Street. Adjacent to that was a Westpac bank?

Mr GAZAL SNR: There was a Westpac bank which is about 1,200 square metres of land.

The Hon. JOHN RYAN: You did not own that land, did you?

Mr GAZAL SNR: No.

The Hon. JOHN RYAN: The proposal put to you by the council was that you acquire that land which was adjacent to yours —

Mr GAZAL SNR: And I do the development.

The Hon. JOHN RYAN: Then you would do the development of the whole site involving council chambers?

Mr GAZAL SNR: Involving the council chambers.

The Hon. JOHN RYAN: And other commercial space and residential towers?

Mr GAZAL SNR: To build about 300 residential on my land, put 10,000 square metres of commercial buildings and about 4,500 square metres of neighbourhood shopping centre, a small supermarket and café à trois and alfresco, you know, like a plaza. At the beginning when I did the deal, or when we negotiated with Mr Murray, we were going to build a 10,000 square metres 10-storey building for the council. But to do that they needed 2,000 square metres. We were supposed to buy the Westpac bank and then build it for them. But then I realised I can't lease it for them or I can't strata title. They wanted, Mr Murray told me, stratas. They want to own to the bottom of the ground. They wanted to build a car park and they wanted access through my land to come to their land from Terminus Street. We still have a lot of the plans available.

Then Mr Murray said "There is no point". I said "What's the point of me buying the land?" and he wanted me to sell him the land at any time. He wanted 700 or 800 square metres, a triangle of my land, which is adjacent to Westpac. With the Westpac land it will make 2,000 square metres. Then they wanted me to build for them and sell them the whole thing at the cost price. I said "What is the point of me buying the land off Westpac and then sell it to you at the same cost price? You had better go and do a deal with them directly. Then when you acquire the land you come and buy a piece of my land and then you get whoever you like to build your own building and we will incorporate it within our development. We will deal with them."

Because it seems they had a condition—I don't know what the deal. There was a sweet deal between them and the Oasis that only Adcorp can build the building. Adcorp used to be the sponsor of Canterbury club. There was some deal which I didn't understand. I didn't want to enter into. All what I understood, I was doing all the work for them for nothing. I said "You might as well do your deal". This is when they brought me the MOU. The MOU will tie my land without them having any control over the Westpac land. Then after Mr Murray decided to go and negotiate with Westpac to buy the land and move Westpac bank to Macquarie Street to rent them a place there while they build the building. This is where I left it. It cost me a lot of money. They delayed my project for at least three years. Nothing happened of it. At the end I found out they are a bunch of amateurs, that is what it is.

The Hon. JOHN RYAN: I take it your concern was had you signed the MOU and the council not acquired the land adjacent to yours to make the whole project possible, you would have been legally bound to do nothing with your land—

Mr GAZAL SNR: Until I wait for them to buy or what to do with Westpac.

The Hon. JOHN RYAN: And that was your concern?

Mr GAZAL SNR: I am not silly. I have lawyers and they read it and they said "You don't sign it". I don't sign it.

The Hon. JOHN RYAN: Obviously what has been suggested—I am only guessing so it is hypothetical—did you ever make a suggestion to the council either through yourself or Mr Mosca that "My development at Orange Grove has to be approved, otherwise, there is a chance that we won't go through with this deal that is important to Oasis?" In other words, you would have been using your position in Scott Street as a leverage to get the council to consider your proposal at Orange Grove more favourably?

Mr GAZAL SNR: Who shall I put it? You have to put to somebody in authority who can do that. Who can do that?

The Hon. JOHN RYAN: I am not sure, but have you ever—

Mr GAZAL SNR: I wasn't sure either. The council only can do that and I have never said anything to the council about that, or to the planner who approved it: never.

The Hon. JOHN RYAN: Did you say the council had suggested that to you?

Mr GAZAL SNR: No, the council wanted to buy my land, buy 700 metres from my land and this was the end of the deal and to develop with my land by giving them access to their car park. But they let it go themselves. It is not me who got out of the deal. They couldn't buy Westpac and they couldn't continue with the deal.

The Hon. JOHN RYAN: Is it not true that at around the same time that you had lodged Orange Grove for the second time with the council around June—

Mr GAZAL SNR: I did, yes—

The Hon. JOHN RYAN: this discussion about the MOU was on foot. Is that true?

Mr GAZAL SNR: Yes, the MOU happened on 25 June 2002.

The Hon. JOHN RYAN: That is a year before, is it?

Mr GAZAL SNR: No.

The Hon. JOHN RYAN: That is around the same time.

Mr GAZAL SNR: This is when we submitted on 15 June the second application.

The Hon. JOHN RYAN: So the two were being considered together?

Mr GAZAL SNR: Yes, this is when they brought me the MOU.

The Hon. JOHN RYAN: I am not sure that you have actually answered my question.

Mr GAZAL SNR: I don't understand the question.

The Hon. JOHN RYAN: I am happy to explain it again because it is critical.

Mr GAZAL SNR: Please do.

The Hon. JOHN RYAN: Have you personally ever put to the council, either yourself—

Mr GAZAL SNR: To who at the council?

The Hon. JOHN RYAN: Anyone in the council. I am just asking about whether you personally—

Mr GAZAL SNR: Me personally?

The Hon. JOHN RYAN: Yes. Have you given instructions to somebody to put to the council—I cannot suggest to you to who in the council because it would have been something you were doing and I stress this is a hypothetical—that the approval of Orange Grove was in some way or other conditional to your further co-operation with a proposal in Scott Street that was crucial to the Oasis development? Have you ever done that?

Mr GAZAL SNR: No, why would I do that? I want them in Scott Street. I don't want them to run away in Scott Street. Scott Street they make me money. My land will be worth three times more if they come to Scott Street. Why would I threaten them not to come to Scott Street? It's silly. I mean it doesn't make sense.

The Hon. JOHN RYAN: Was the proposal in Scott Street more valuable to you than Orange Grove?

Mr GAZAL SNR: Just give you an example. If they come to Scott Street, I paid \$6 million for it. It will be valued at 20 million once they decide to build there. What do you think, I went out of my way to negotiate on their behalf to sell them part of my land? Once they come to Scott Street they give me 15 million just like that.

The Hon. JOHN RYAN: So, if I put it to you it might have been more sensible for you to use your Scott Street as a bargaining—sorry, to have used—

Mr GAZAL SNR: If they come to me this what I would do. I was pissed because they didn't come to Scott Street.

The Hon. JOHN RYAN: Yes. Okay. So I take it you were disappointed?

Mr GAZAL SNR: I went and I built it—I made drawings for them. It cost them thousands and thousands of dollars. But I found out I was negotiating with people who don't have the power to negotiate and they're not the people who you can sign with at the end because the power was with the Canterbury club.

The Hon. JOHN RYAN: Okay. I think I can finish on this, too. Who were you negotiating with in Liverpool council? Do you remember the name—?

Mr GAZAL SNR: For which—?

The Hon. JOHN RYAN: On the Scott Street proposal?

Mr GAZAL SNR: On Scott Street? Only Frank Mosca and Murray Douglas. That's only the people—

The Hon. JOHN RYAN: When you say—use the expression "they were amateurs" are you referring to Mr Douglas only or others as well?

Mr GAZAL SNR: The council and Mr Douglas, yes.

The Hon. AMANDA FAZIO: Madam Chair, I just have a couple of questions to finish up our questioning of Mr Gazal.

CHAIR: Okay, just quickly.

The Hon. AMANDA FAZIO: Mr Gazal, you stated earlier that when you were playing cards with Mr Frank Lowy he allegedly made comments about the Premier. Was anyone else present at the time he made those comments?

Mr GAZAL SNR: I can't recall. It's just a while ago now these comments they were done.

The Hon. AMANDA FAZIO: And assertions you've made about Mr Frank Lowy, would you be prepared to make these assertions outside this Committee without protection and privilege?

Mr GAZAL SNR: I'll have to think about.

The Hon. AMANDA FAZIO: Okay. And in relation to the comments that you have attributed to Ms Katherine Keating, you said that she told your son, Nabil junior—

Mr GAZAL SNR: Yes, you can call my son.

The Hon. AMANDA FAZIO: No, I don't want to call your son because I think you might be able to clarify this for us. How soon after she allegedly saw Mr Lowy and had a chat with him in the foyer of the Governor Macquarie Tower did she tell your son about it and where was she when she told your son about it?

Mr GAZAL SNR: I'll have to ask him. How soon after she mention—

CHAIR: Order! Mr Gazal, you can't ask somebody in the gallery a question.

[Interruption]

CHAIR: However—

Mr GAZAL SNR: One week after.

CHAIR: —I have been asked by a member of the Committee whether we could hear from Mr Gazal junior. But I would need to ask the Government members whether they would be happy to have him sworn in to answer that question.

The Hon. JOHN RYAN: I think he's already been sworn in, Madam Chair.

CHAIR: Or to invite him to be added to the witness list.

The Hon. AMANDA FAZIO: If that was the only question, though, that people wanted to ask and Mr Gazal has informed us of that conversation between his son and Ms Keating took place a week after she claimed to have seen Mr Lowy then I am quite satisfied with that and I do not see the need to ask Mr Gazal junior to come in.

CHAIR: Okay. Okay, we'll deliberate on that particular matter at some other time.

The Hon. AMANDA FAZIO: I don't have any further questions.

CHAIR: Okay. That's it. Thank you very much, again, for your assistance, Mr Gazal.

(The witness withdrew.)

Ms SYLVIA HALE: Could we deliberate about having Mr Gazal junior?

CHAIR: We will have to have a deliberative about that particular matter of hearing from Mr Gazal junior. So we have to clear the room.

Ms SYLVIA HALE: I move that we move into a deliberative.

(Short adjournment)

NABIL GAZAL JUNIOR, on former oath:

CHAIR: Thank you, Mr Gazal, for making yourself available at very short notice.

Mr GAZAL JNR: Not a problem.

CHAIR: The oath that you made at an earlier hearing applies, continues to apply. So we have up to 15 minutes for questions on that one matter that was alluded to earlier. Are there any questions?

The Hon. JOHN RYAN: We asked you—you heard your father giving evidence earlier. Would you care to tell the Committee about that meeting that you had with Ms Keating? What was said, to the best of your knowledge when it occurred and where it occurred?

Mr GAZAL JNR: It wasn't a meeting, it was a telephone conversation. Katherine Keating and I, we've been friends since high school, so a couple of years now, five, six years. She called me. She heard about the Supreme Court decision when Westfield won in the Supreme Court. We met at a party that was just after the decision. And then, anyway, we were friendly throughout the beginning of the year. We saw quite a bit of each other. So she heard about the—she knew about the fight from the Supreme Court decision and then in April, it was just before I was going overseas so early April, mid April, she called me and just in general conversation she was asking how things were going and I told her, you know, the rezoning's under way and such and such.

And then she said, "Oh, by the way, I saw Frank Lowy in the lobby of Governor Phillip Tower" I think it was "this morning" she said. Actually, it was afternoon. And she said, you know, that they know—she told me that the family, Paul Keating, actually worked for Westfield to get the Bondi Junction rezone or get their whole development up there, and they had been family friends for a while. So she knows Frank Lowy. And, yeah, she asked him what he was doing there and he said he was seeing the Premier about their centres policy.

The Hon. JOHN RYAN: What was the circumstance of the phone call? Did you call Ms Keating or did she call you?

Mr GAZAL JNR: No, she called me. It was just a general conversation.

The Hon. JOHN RYAN: Without wanting to be too—to pry into your details too much, was it a conversation about other things as well?

Mr GAZAL JNR: No, just—it was like a friendly call and we'd been at—

The Hon. JOHN RYAN: She wasn't—I suppose what I'm getting to, did she specifically call you to give you that information?

Mr GAZAL JNR: No.

The Hon. JOHN RYAN: Or did the conversation drift into that?

Mr GAZAL JNR: It drifted into that.

The Hon. JOHN RYAN: And you could—you date the conversation from—in proximity to your visit that you made overseas?

Mr GAZAL JNR: Yes. Yeah, that's correct. It was—

The Hon. JOHN RYAN: And you—

Mr GAZAL JNR: It was in between. It was after the Supreme Court and—it was April some time, early April.

The Hon. JOHN RYAN: So it's after the Supreme Court decision in March?

Mr GAZAL JNR: Yes.

The Hon. JOHN RYAN: And before you went away?

Mr GAZAL JNR: Yeah.

The Hon. JOHN RYAN: And you would be able to date the time you went away—

Mr GAZAL JNR: I'll look through my diary and find out. I should be able to pinpoint the date.

The Hon. JOHN RYAN: The date of the conversation?

Mr GAZAL JNR: Yeah.

The Hon. JOHN RYAN: Or the date you went away?

Mr GAZAL JNR: Of the—I know the date I went away is 20 April.

The Hon. JOHN RYAN: Right. But you think you could probably, with notice, give the Committee—

Mr GAZAL JNR: Yep.

The Hon. JOHN RYAN: —some evidence in writing as to when it occurred.

Mr GAZAL JNR: Sure.

The Hon. JOHN RYAN: Do you recall the exact words she used to you with regard to what she told you about Mr Lowy?

Mr GAZAL JNR: The exact words?

The Hon. JOHN RYAN: Well, as close as you can.

Mr GAZAL JNR: What I said before, that she saw him. She asked him what—he was in the lobby she said looking at, I think it was, the directory board or something. And she went up to him and he didn't realise who she was and then she told him and then they started having a general conversation. She asked what he was doing there and he said he was going to see the Premier about his centres policy.

The Hon. JOHN RYAN: The lobby you are referring to is the—do you know what building that was?

Mr GAZAL JNR: I believe it's Governor Phillip Tower.

The Hon. JOHN RYAN: The Government buildings?

Mr GAZAL JNR: Yep.

The Hon. JOHN RYAN: In which ministerial offices are?

Mr GAZAL JNR: Yes.

The Hon. JOHN RYAN: And the Premier's office is?

Mr GAZAL JNR: Look, I didn't—I don't even know if the Premier's office is there, but I'm pretty sure.

The Hon. JOHN RYAN: Did she work in Mr Knowles' office at the time that she asked you this question?

Mr GAZAL JNR: Yes. Yes, she works for Minister Knowles. That's why I know it was in Governor Phillip Tower.

The Hon. JOHN RYAN: Do you know what her role is in the office of Mr Knowles?

Mr GAZAL JNR: Not really. I think she's just an adviser to—she was also at the opening of the factory outlet centre.

The Hon. JOHN RYAN: What?

Mr GAZAL JNR: With Minister Knowles.

The Hon. JOHN RYAN: Oh, she attended with him?

Mr GAZAL JNR: Yep. She's an adviser, I believe.

The Hon. JOHN RYAN: Thank you, Madam Chair.

CHAIR: Are there any further questions?

Ms SYLVIA HALE: Did she ring your mobile or was it—

Mr GAZAL JNR: Yeah, it was my mobile.

Ms SYLVIA HALE: Would you think she was ringing from a mobile?

Mr GAZAL JNR: Yep, I believe so.

Ms SYLVIA HALE: So she—from your mobile records it would be easy for one or the other of you—

Mr GAZAL JNR: Yeah, from her mobile records.

Ms SYLVIA HALE: You would know your phone numbers that were rung?

Mr GAZAL JNR: Yep.

Ms SYLVIA HALE: So we can verify it that way that a conversation took place?

Mr GAZAL JNR: Yes.

Ms SYLVIA HALE: When did you first mention this to your father?

Mr GAZAL JNR: I mentioned it to him when it happened. And we never ever thought things like this would happen, that it would be screwed over. And my father always had much respect for Bob Carr. He thought he was a very good politician and he never thought he would interfere in planning business. So my father just dismissed it as, you know, just a meeting with Frank Lowy. He knew that they were friendly, so he didn't put two and two together. But, to be honest, we, it was never—dad knew about it a long time ago. We've known it. I told him when it happened. In the heat of the inquiry we mentioned it as well. But we didn't want to—as you can see, my dad's pretty irritated now after what we heard today about Westfield wanting to fund tenants to fight us. My father, you know, counted Frank Lowy as one of his friends and he didn't really want to make it a fight between him and Frank Lowy. It was just, you know, even during the inquiry stage it was just between Westfield and Gazcorp, and didn't really want to take it personally. But I think he was really upset when he heard that they want to fund tenants to sue us. So that's why, if you're asking why haven't we mentioned it before, that's the reason.

Ms SYLVIA HALE: But you mentioned it to your father before you went overseas.

Mr GAZAL JNR: Yes, I did.

Ms SYLVIA HALE: Have you spoken to Ms Keating about it subsequently, that conversation?

Mr GAZAL JNR: No, I have not, actually.

The Hon. JOHN RYAN: Do you still regularly have telephone conversations with Ms Keating?

Mr GAZAL JNR: No, not any more—not since all of this happened.

The Hon. AMANDA FAZIO: Can I just ask you, prior to this conversation you say took place in mid to early April, how frequently would you have been in contact with Ms Keating?

Mr GAZAL JNR: At the beginning of this year?

The Hon. AMANDA FAZIO: Yes.

Mr GAZAL JNR: I would probably say once a week, twice a week, a couple of times a month.

The Hon. AMANDA FAZIO: Was the basis—

Mr GAZAL JNR: She is a good friend of my sister as well.

The Hon. AMANDA FAZIO: And the basis was just a friendship basis?

Mr GAZAL JNR: Yes, a friendship basis.

CHAIR: No further questions?

The Hon. HENRY TSANG: I have a question.

The Hon. JOHN RYAN: By all means.

The Hon. HENRY TSANG: Mr Gazal, when you were taking the call, in what circumstances were you? Were you at home in the evening quietly, or were you at a party?

Mr GAZAL JNR: I was in the office.

The Hon. HENRY TSANG: So you were quite stable and, you know, it was not a party and it was not a lunch that you had—

Mr GAZAL JNR: You are asking me if I was intoxicated?

The Hon. HENRY TSANG: Exactly—the condition. You were quite—

Mr GAZAL JNR: No, I was in the office. We do not drink at the office.

The Hon. AMANDA FAZIO: That is a good policy.

Mr GAZAL JNR: You guys should take it up.

The Hon. AMANDA FAZIO: We can do without that rudeness, thank you.

Mr GAZAL JNR: You think I am rude.

CHAIR: Thank you for your assistance.

(The witness withdrew)

CHAIR: I wish to advise the media and the public that the Committee has received a request from our next witness, Mr Douglas, that he appear in camera and that the evidence then be subsequently made public. The Committee has resolved to agree to this request, so I need to ask the public to clear the room. The Committee will decide after the hearing on the publication of the transcript and the published version will be posted on the Committee's web site. I need a motion that we move to sit in camera.

The Hon. DAVID OLDFIELD: I so move.

Motion agreed to.

(Evidence continued in camera)

**REPORT OF PROCEEDINGS IN CAMERA BEFORE
Published by resolution of the Committee 11 October 2004**

GENERAL PURPOSE STANDING COMMITTEE No. 4

INQUIRY INTO DESIGNER OUTLETS CENTRE, LIVERPOOL

At Sydney on Monday 11 October 2004

The Committee met at 4.22 p.m.

PRESENT

The Hon. J. A. Gardiner (Chair)

The Hon. A. R. Fazio

Ms S. P. Hale

The Hon. D. Oldfield

The Hon. J. F. Ryan

The Hon. H. S. Tsang

MURRAY FRANCIS DOUGLAS, Consultant, sworn and examined:

CHAIR: We will resume the hearing and welcome Mr Douglas. As you will have noticed, the Committee has agreed to the request that your evidence be heard in camera, and then the Committee will deliberate on the publishing of the evidence.

Mr DOUGLAS: Thank you very much.

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

Mr DOUGLAS: My understanding is I have been requested by the Committee to attend.

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

Mr DOUGLAS: I am.

CHAIR: Have you any statement to make at the outset?

Mr DOUGLAS: No. I assumed that you were going to ask me questions.

CHAIR: Okay. We will proceed to questions. Are there any questions?

The Hon. HENRY TSANG: We will reserve our rights until our member returns.

CHAIR: Fine.

The Hon. JOHN RYAN: Mr Douglas, you would have to be aware of the fact that this is a confidential meeting which is not available to the public. If necessary, I understand in relation to the question I am about to ask that you may request that it be kept confidential, if you wish, notwithstanding other material. But it seems to be the worst kept secret in town that you have made a protected disclosure to the Liverpool council which is relevant to the terms of reference of this inquiry. I have been informed that it is possible that in that disclosure you have made certain allegations with regard to a request by a person—I am not absolutely sure, but I believe it might have been the then general manager of the Liverpool council—that he had ordered somebody to process the development application for Orange Grove within a period of "two weeks". Are you able to tell the Committee as to whether that is true? Have you raised those concerns with the general manager of Liverpool council?

The Hon. AMANDA FAZIO: Before you answer, Mr Douglas, I think Mr Ryan was saying that he thought you made a protected disclosure to ICAC, not to Liverpool council.

Mr DOUGLAS: Well, actually, it is, in effect, both. In effect, it is both. I made a protected disclosure through Liverpool council, which is known to the current general manager, in January of this year which has caused me some difficulty in respect to both this hearing—inquiry, I am sorry—and for whatever ICAC may or may not be doing with that disclosure. I am also embarrassed and concerned and compromised to find the substance of that appearing in the House.

CHAIR: In the Legislative Assembly?

Mr DOUGLAS: Correct.

The Hon. JOHN RYAN: In what way? How was it revealed in the House?

Mr DOUGLAS: I prefer not to comment on that because that may be subject to both action by me and by other parties, but it has happened and I have just got to accept that, which is the uncomfortable position I am in, to actually come and appear because I did not offer, myself, and would not have—

The Hon. JOHN RYAN: Why?

Mr DOUGLAS:—given that the disclosure had been made.

The Hon. JOHN RYAN: I think we can cut through that by simply saying that the Premier of New South Wales told this Committee that we should hear from you.

Mr DOUGLAS: I appreciate that. I have never met the Premier and have not brought that—

The Hon. AMANDA FAZIO: How do you come to that conclusion?

The Hon. JOHN RYAN: It is in *Hansard* of the Legislative Assembly.

CHAIR: Order! For the record, it is on the *Hansard* of the Legislative Assembly.

Mr DOUGLAS: Yes.

CHAIR: In fact, I think the Premier said that if this Committee had any credibility at all, we should call you as a witness.

Mr DOUGLAS: I received knowledge of that, within minutes of him saying, from a person in the House who was as astonished as I am. I do not know how he got it. I have got my suspicions but I do not know. I cannot say that what he said was entirely accurate, and it is not for me to question whether he is right or wrong per se, or what he thought it was. But what he is concerned about, or what he said it was, was not entirely accurate, but it is accurate enough, and that is the difficulty that I am in, in respect to ICAC now.

The Hon. JOHN RYAN: Are you able to tell the Committee if you have any knowledge of a person in the Liverpool council ordering other council officers to consider the Orange Grove matter within a period of two weeks?

Mr DOUGLAS: Yes, I do, and that would be the least of the concerns I have.

The Hon. JOHN RYAN: Well, would you explain to the Committee what that concern was and exactly who told who to do what?

Mr DOUGLAS: Yes. I will have to choose my words pretty carefully and/or you may have to manage them in a different way, and if I can have some respect in the sense—

CHAIR: Sure.

Mr DOUGLAS:—because it effectively it goes to the heart of the ICAC disclosure. Can we go back about—it takes a while. I have been in local government as a general manager or a chief executive for about 15 years in New South Wales and Victoria and New Zealand. I have been a director and a group manager prior to that. So I have spent a long time in senior management positions. I pride myself on a very high degree of ethics and professional standards. I was employed in Liverpool to work on the Oasis project plus the CBD because they were related. One of the issues behind Oasis was to get more yield out of the CBD sites. Quite crudely, that is what I was asked to do in the CBD.

I must admit I agreed in general principle, irrespective of the Oasis process. As a result of that I got involved in a number of things, including the Scott Street proposal. Now I understand you have had copies of Professor Daly's report so you will understand the Oasis process. But the two key things are the commercial agreement signed in February 2001 between the council, the Bulldogs leagues club, the football club, Macquarie Bank and a thing that had not actually been formed—so it was very strange that they could sign it—which was the foundation, the Bulldogs Sports Community Foundation. That had a process of building a new council building out of surpluses derived from Woodward Park, the land across the road and the three CBD car parks.

For whatever reason—I wasn't working for council then—council decided to accelerate or change the program by request of the Bulldogs to have what was called the early construction agreement, which was signed in February 2001. The timing is quite important for how these things work. I was working—I had just started working—as a consultant partly to operationalise Oasis and partly on the CBD at the time the second one was

signed. I was very much a part-time consultant. And that accelerated the arena being built behind the council building. As a result of that all the structures sitting underneath the first agreement were altered to council putting in \$22¼ million, the Bulldogs putting money above that to the costs of the arena, which was at an interest-bearing loan.

Now in part of that first agreement—the commercial agreement—was the new council chambers on the Warren Street serviceway car park. That is in the northern CBD, where Westfield is, the hospital is and the TAFE. It became very, very clear that that was an inappropriate site to put a big council building—Mr Gazal spoke earlier about the importance of putting it in the southern CBD. So in October 2001—I was still a consultant—I was directed by the general manager to look in the southern CBD for another site, and really there was only one obvious site, which was Scott Street. I had discussions then, through the period into November and December, with Mr Frank Mosca, who made himself known to me—as Mr Mosca tends to do to anybody he thinks can influence the work he is involved in. He claimed he was the agent for Mr Gazal and so we worked up a memorandum of understanding [MOU]. The MOU was worked up directly and fully with Mr Mosca, who claimed to be able to speak for Mr Gazal.

That document went to council with a full report from me—I don't know if you've had copies of that report but it's in the council documents somewhere—and council agreed to enter an MOU with Gazcon, which is one of the companies of Gazcorp, to put the entire council building on Mr Gazal's land and/or part of Westpac could it be acquired because the council had the next two sites. I might add the Gazcon land came around behind the Westpac building and came onto the back of one of the council sites in any event. So it could have been built either way. Mr Mosca claimed he had goodwill from Mr Gazal, and that seemed to be the case. A press release was released the following day from George Paciullo with, I believe, quotes from Mr Gazal and it was definitely worked out between Mosca and myself.

The MOU was then given to Mr Mosca to translate to Mr Gazal. I heard him say earlier that he didn't get it till July. That may or may not be the case, but certainly it was given to Mosca in late February. I don't have access to that correspondence but it will all be there. And there were some desultory conversations with Mr Mosca and by then Mr Gazal—two or three phone calls. I met Mr Gazal at least twice socially with Mr Mosca and with ex-Councillor Beuk on one occasion—on another occasion without them. These were intended to try and get to that point of acquiring it. Now the point that I'm coming to about these commercial agreements is it said council will go to either the Warren Street serviceway car park for the 10,000 square metre building or another site—the agreement actually says to "another site"—and that was what we were trying to do. It was passionately committed to by Mr Paciullo and the council because the southern CBD had been heavily damaged by the sale of part of Macquarie Street to Westpac in the early nineties in the Latham period of the mayoralty.

The Hon. AMANDA FAZIO: Is that Westpac or Westfield?

Mr DOUGLAS: Sorry?

The Hon. AMANDA FAZIO: You said the southern part of—

Mr DOUGLAS: The CBD was devastated by Westfield's expansion in the early 1990s.

The Hon. AMANDA FAZIO: That's right. You said "Westpac". I just wanted to clarify that it was Westfield.

Mr DOUGLAS: I'm sorry, Westfield. I do apologise. And then we were also negotiating—I on behalf of council—for the sale of another street to Westfield simultaneously with this. So I was concerned—and council respected that concern; I mean, I've had a lot of experience in this, despite now being called an "amateur", which is a very unfortunate phrase—that we were going to end up with a similar effect. It wouldn't be as bad because it already had been devastated and there wasn't much left: dime stores, empty shops that sort of stuff. So it was an obvious sort of thing to do. So we were acquiring the site for Oasis to build.

Now Mr Gazal is not quite correct in what he said earlier about ADCO. It had nothing to do with ADCO. ADCO were building the arena because of their previous arrangement with the Bulldogs at Belmore, but all of that is history now. But it would have been built by the foundation or Oasis Development Corporation, which was a company of the foundation, who could or could not have agreed with Mr Gazal to do the building. That was never ever unravelled. But we were talking. It may not have been that MOU, it may have been a set of

letters, it may have been something else. I might add he mentioned a meeting with the lawyers that I have no recollection of, which is interesting.

But the whole point coming through is that we were talking but in a desultory way. There are two things why. First—and Mr Gazal was quite correct—we couldn't deliver the money because the arena, because it had come out of sequence, was sucking in money like you wouldn't believe. It was out of control, and the Daly report shows you that. It ended up at \$69 million instead of 33. We didn't know until about May about that—April-May. The more it sucked money in there the surplus that was coming from the CBD had to pay off the loan to the Bulldogs first, running at the Westpac commercial overdrafts for interest rates. It was a massive problem.

So I could never say to Mr Mosca, who was the primary person I was dealing with, that council could ever build this building, except that was the intention. And it certainly was the intention; I've got no doubt about that. But the second thing—and Mr Gazal overlooked this in his evidence today—the primary reason why he wasn't proceeding is we were also doing development control plan [DCP] 30, which is the CBD height controls, which included it. I was co-ordinating that with Mr Turrisi. That went in place in November 2003. So there was definitely no building going to go on until that was in place because nobody knew the rules. So that was all held up.

I'm sorry, Mr Ryan, I'm now coming to answer the question. That is really background to understand it. In June—and I knew nothing about Orange Grove in June; Mr Mosca had actually taken me down there as one of Mr Mosca's ways of trying to encourage me to think in his particular way and showed me the megacentre because he had done the design for Mr Gazal on that and that was fine—Mr Mosca rang me. I cannot recall if it's the same day I then rang Mr Gazal or the day before—the more I think about it, it's the day before. But Mr Mosca, who usually at least tries to say "g'day", immediately said, "If you expect anything to happen in respect to Scott Street you better get council's planners thinking a bit differently and in particular"—I'm paraphrasing now—"Chris Weston's advice." That really was the first time I'd heard about this issue. Because its outside the CBD, it's not Oasis—I was very highly focused on that. You may recall that with the thing going out of control—it hadn't quite hit the salary cap thing but it was beginning to go out of control—we were having real problems.

Now I didn't take a lot of notice of it, to be quite honest. Mr Mosca, and you've heard him here, I understand—I might add I've never read any of the transcripts so I don't know what he's offered to you—is a person who exaggerates a lot. He is a drama queen of the first order and he threatens and pressures planners all the time and goes up and down the hierarchy. So to some extent I didn't take a lot of notice because that was just Frank being Frank. But in the course of that conversation I said, "Well, look, where are we with this business because we really haven't got any certainty about it in terms of Scott Street?" And he said, "Well, you better ring Gazal." So I did the following day—I think it was the following day. This is the difficulty now. What happened—and I have always found Mr Gazal, until then and certainly until today, a very reasonable and fair-minded person to deal with—was that I asked Mr Gazal was there any problem in obtaining a signature to that or something similar. He said he would not sign until council agreed to the factory outlet at the mega centre. He also noted that Westpac had not come back in regard to their site, which was true.

Now in my time in local government I've had a lot of people very subtly make comments about what is or is not a good thing and how it can or cannot be obtained—less in New Zealand, some in Victoria; it's a little more common in New South Wales; a little less subtle. But this is the first time anybody have ever said to me, "You do this and I'll do that." Never in my experience had I experienced that. I was completely nonplussed. I said, "Well, look, I'll have to ring you back to see where we're going to go on this." I said to him that we'd have to consider other options because frankly that's not a way of doing business. I then spoke to Gerard Turrisi and expressed my concern—I believe his office was right next door to me at that time—about the mixing of transactions. He advised me that the general manager had given him a new DA from Mr Mosca on the megacentre site and he, the general manager, indicated that he expected it to be processed within two weeks—that's your two weeks, Mr Ryan.

The Hon. JOHN RYAN: Now the general manager—just to make life more clear—is Mr Brian Carr.

Mr DOUGLAS: Yes—another B. Carr. Gerard at that stage advised me that he hadn't come to any view that he would exercise his discretion. I also then spoke—this is June the 12th—to Mr Eric Heapy, the acting GM, and told him that I was concerned about the ethical position. I also rang Councillor Beuk, as the councillor

in charge of major projects which I was responsible for, to advise him of this pressure being exerted on the planning system relating to a separate matter of a future council site. I signed this at 12.39 on June the 12th; the conversation with Nabil Gazal was at 10.30. You can see how concerned I was at the time.

The Hon. JOHN RYAN: Sorry. You signed what?

Mr DOUGLAS: A file note of that, which is this famous file note now.

The Hon. JOHN RYAN: I'm sorry, it's not famous to us.

Mr DOUGLAS: Well, apparently in the House it is.

The Hon. JOHN RYAN: Are you able to supply a copy of that file note?

Mr DOUGLAS: I need to take that on advice.

The Hon. JOHN RYAN: Advice from whom?

The Hon. HENRY TSANG: From a lawyer.

Mr DOUGLAS: This is the difficulty: It is an ICAC document now, you see.

Ms SYLVIA HALE: But it's a document that's lodged with Liverpool council—at least the original would have been.

Mr DOUGLAS: Yes. It's in Liverpool council.

The Hon. JOHN RYAN: Are you referring to your disclosure? I thought you were referring to a file note you took contemporaneously.

Mr DOUGLAS: This is the file note that is part of the disclosure.

The Hon. JOHN RYAN: Well, the file note is separate to the disclosure, with great respect, Mr Douglas.

Mr DOUGLAS: It's attached to it. That's the difficulty I've got with it. The advice I've had to date is that—well, I've had two lots of advice: one is I shouldn't come here at all and discuss this because it is with ICAC and the other one is whether I can leave documents. Can I say I personally have no problem but I am constrained and I'm willing to find a way through the constraint if that is possible.

The Hon. JOHN RYAN: Have you sought advice from ICAC yourself?

Mr DOUGLAS: The general manager, the current general manager, of Liverpool has said he was going to get that advice.

The Hon. JOHN RYAN: But you haven't sought advice yourself.

Mr DOUGLAS: No, because the disclosure was made through Liverpool to ICAC.

The Hon. JOHN RYAN: That's true, but in terms of your file note your file note remains a file note regardless. Is the file note you are referring to a document in the possession of Liverpool City Council apart from its attachment to your disclosure?

Mr DOUGLAS: A copy was given after the event to the acting general manager.

The Hon. JOHN RYAN: Did you leave your file notes generally with Liverpool council?

Mr DOUGLAS: No.

The Hon. JOHN RYAN: So it really is a personal document of your own.

Mr DOUGLAS: Yes, if you want to characterise it that way. Yes.

CHAIR: But, Mr Douglas, you're prepared to get advice on making that available?

Mr DOUGLAS: Equally, if you care to get advice and give it to me I'm prepared to go along with it. It's a difficult position between ICAC's jurisdiction and your jurisdiction. I discussed it with your staff—not with Mr Reynolds but other staff here—and we never went very far.

The Hon. JOHN RYAN: Are you able to read to us the content of your file note?

Mr DOUGLAS: Effectively I have read parts of that, and the central parts, already. So it is in the transcript.

Ms SYLVIA HALE: Mr Douglas, was it your practice to keep personal file notes? Most of the evidence we have had to date is that where people have kept notes it has been as part of council files.

Mr DOUGLAS: No, it was not my practice but this was so astonishing, I did.

The Hon. JOHN RYAN: So you took it with you when you left the council?

Mr DOUGLAS: Correct.

The Hon. JOHN RYAN: And you did not return it to the council until you made this disclosure?

Mr DOUGLAS: No, the disclosure was made in January. I was still working for council. It was made, as I indicated before, to the acting general manager.

The Hon. JOHN RYAN: That was the time you presented it to Mr McCully, who is the current general manager?

Mr DOUGLAS: Previously it had been given to Mr Heapy, a copy had been given to Mr Heapy at the time.

The Hon. JOHN RYAN: Your file note?

Mr DOUGLAS: Correct.

Ms SYLVIA HALE: Mr Heapy is?

Mr DOUGLAS: He has gone now. He was—I cannot recall his exact title—group manager, corporate services. But he was acting general manager at the time this incident occurred.

Ms SYLVIA HALE: So Mr Heapy would be able to inform the Committee as to when he received a copy of the file note?

Mr DOUGLAS: Hopefully.

The Hon. JOHN RYAN: What was the reason that he was acting general manager? Was it because Mr Carr had left?

Mr DOUGLAS: No. Mr Carr was still there but Mr Carr would have been away for some reason. Whenever Mr Carr was away Mr Heapy just automatically took over. I was so concerned about this I just took it straight through. I have been in the role of a general manager a long time. I now how important these things are.

The Hon. JOHN RYAN: When you say you took it straight through, as I understand it your disclosure occurred some time after the events?

Mr DOUGLAS: Yes.

The Hon. JOHN RYAN: So, did you raise these concerns with Mr Carr at the time that they occurred?

Mr DOUGLAS: Mr Carr was not there. I raised them with Mr Heapy. He was the acting.

The Hon. JOHN RYAN: So, you told Mr Heapy at that time?

Mr DOUGLAS: Yes.

The Hon. JOHN RYAN: That you had been given this, I guess, deal from Mr Gazal and Mr Mosca?

Mr DOUGLAS: Correct.

The Hon. JOHN RYAN: What did Mr Heapy do with regard to that?

Mr DOUGLAS: I have no idea. I think we have to recall several things. The DA had not been dealt with at the time, it was still in council being processed or whatever was happening. And I was not involved in this DA whatsoever. It was not my game. I had no responsibility at all. Subsequently, I spoke to Mr Turrisi a couple of times afterwards, because Mr Turrisi was genuinely worried about this business—not so much what I told him but whether he should exercise a discretion in respect to the Act.

The Hon. JOHN RYAN: In what regard?

Mr DOUGLAS: Well, the Liverpool LEP, as you have no doubt seen, is a very old-fashioned document even though it was done in 1997. It is not effects based and it is not performance based. It is a set of rules and lists, quite literally, ticks and crosses on lists, and you would have seen that already. There is no tick or cross allowing retailing in industrial zones, none whatsoever, and this whole point came about whether the council represented by whoever—the councillors or officers under delegation—can change a zoning by DA. Any experienced manager in local government of any jurisdiction I ever know of would know you do not do that. You cannot do it. It is inconceivable, full stop. So the pressure on Mr Turrisi to exercise this little bit of discretion in the Act that says if it is not prohibited it may be considered—and that is really for editorial reasons, it is not for this sort of thing, it is not for zoning changes—you do planning amendments. Liverpool does two every month approximately—little spot-zoning planning amendments. Why on this one would he exercise that?

Now, the pressure from Mr Mosca in particular—I remember Mr Turrisi saying, "Mosca has gone ballistic", I remember the wording—when he found out that Chris Weston was not going to support this. I recall Mr Turrisi saying to me, and this is where I come back into it after June 12, if he could get—this is Turrisi—an economic study to say it would not affect the CBD he is likely to approve it. And we did talk about how he would get such a study done. I had in my possession a study to the effect of Oasis at Woodward Park on the CBD done by Peter Leyshon Consulting, and so we could not use them, we had to get somebody else. I think—you probably know it—I think they used Hurst to give that study. Hurst also rang me in the course of that to get some CBD data.

I want to go back to the Leyshon study. The Leyshon study says Oasis on Woodward Park must not have any retailing that conflicts with the CBD. It was very clear. Yet the Hurst one did not seem to have the same view. The Hurst one showed—and I cannot recall the exact numbers, because I have no access to those files—a 3 per cent or 4 per cent effect in his view. I remember Hurst discussing that and my saying, "I think you are going to have a major problem with this," and Hurst really saying to me, "I will use the data to support my case." And he did. Now, a 3 per cent or 4 per cent impact on the CBD is between \$16 million and \$20 million. If Hurst is wrong, and I suspect he is light—they always are—you add another 1 per cent or 2 per cent at least.

So I was very concerned about that report coming in, but Gerard was of the view that if he could find that, to support that it would not affect the CBD, then he would probably allow the zoning to change, the one that I say is just inconceivable for any senior officer to allow through. Certainly, if you were going to allow it through, you would have put the insurance of the council taking that decision. You would never have done it under delegation. Gerard and I got on pretty well, but after it happened I remember him sitting in my office saying, "I hope I have done the right thing." My view was that he was under enormous pressure from external parties.

The Hon. JOHN RYAN: How would Mr Mosca be able to put Mr Turrisi under pressure?

Mr DOUGLAS: I could get you every planner who has ever been in Liverpool to tell you what sort of pressure Mr Mosca puts you under.

The Hon. JOHN RYAN: It is only going to be phone calls. It is hardly putting your job on the line.

Mr DOUGLAS: If Mr Mosca does not get what he likes, it goes up the hierarchy. If he does not get it out of the officers—and remember this was actually put down to Turrisi from the general manager—it goes to the general manager and if he does not get that he will go to Councillor Beuk. I do not know if you have had Councillor Beuk here. Councillor Beuk is a very powerful councillor—or was. He controlled the caucus. You were either in the team or outside the team with Councillor Beuk. He was very, very powerful.

With respect, Mr Ryan, just read—and I am not being rude to you in the slightest—if you read Professor Daly's comments about the council that was led by the nose by external parties, and they are not my words, they are pretty much Professor Daly's words—I can even quote him, because I have them here—you will understand the environment in which Orange Grove came through and the environment that anybody who was doing strategic or other planning was working under.

The Hon. JOHN RYAN: And you were the only person sailing against this incredible tirade of pressure?

Mr DOUGLAS: In respect to Orange Grove I had very little to do with it.

The Hon. JOHN RYAN: You had nothing to do with it, did you?

Mr DOUGLAS: Only in respect of the matter that came before me that affected Scott Street.

The Hon. JOHN RYAN: You did not deal with DAs, did you?

Mr DOUGLAS: Not on Scott Street, no.

The Hon. JOHN RYAN: So you are telling us that you were the only person at the time who recognised this web of influence and pressure and the only person who sought to do anything about it?

Mr DOUGLAS: If you read the Daly report, Mr Ryan, you will see that web went right through and you will see what happened to officers that stood up.

The Hon. JOHN RYAN: But you were not a junior officer?

Mr DOUGLAS: Effectively I was, on this matter.

Ms SYLVIA HALE: Why would you describe yourself as that?

Mr DOUGLAS: I was not responsible for the DA at Orange Grove. I was dealing with Scott Street. And it is the connection that came through.

The Hon. JOHN RYAN: You said earlier that this was the least of your concerns?

Mr DOUGLAS: We were talking about the two weeks. The least of my concerns was not the two weeks, it was whether somebody put pressure on council.

The Hon. JOHN RYAN: But you have no idea who that person was?

Mr DOUGLAS: I have just told you, it was Mr Gazal who told me.

The Hon. JOHN RYAN: So Mr Gazal used words to the effect that he would not sign the MOU until the council had agreed to his proposal on the mega centre?

Mr DOUGLAS: Correct.

The Hon. JOHN RYAN: Is it at all possible that that sentence could have had a far more benign meaning, which is that he has an option to build his factory outlets either at Orange Grove or in the CBD and that he is sensibly taking the view that until he knows the outcome of what is happening at Orange Grove he is not going to sign an MOU which he described as tying up his land for a considerable period of time and making it virtually not usable for his factory outlets in any fashion? What I am putting to you, is it possible it might have been not a suggestion to you to bargain, it might have in fact been a sensible way for him to organise his business? In other words, he wants to have some finality with regard to something that is controversial and when that has been settled he would decide what he was going to do with his other block of land? Is that possible?

Mr DOUGLAS: I would say everything is possible except that Mr Gazal has already told you that he would not have put factory outlets on that site, and I agree with him. It is far too small.

The Hon. JOHN RYAN: In any event, for whatever reason, it may have been perfectly reasonable for him to deal with whatever was affecting his finances, he may have wanted finality about the Orange Grove proposal before he dealt with another venture? The two may have been linked in an entirely benign fashion? From those words you have quoted to me, they could be ambiguously interpreted to mean that he was waiting until one was dealt with before he dealt with the other—it may well have been that—or it could have the meaning that you have put on it, that this is a threat in the form that you have used with regard to Mr Mosca?

The Hon. HENRY TSANG: Chair, can I interrupt by saying that—

The Hon. JOHN RYAN: I would be grateful to get a straight answer to the question. Is it not possible that the sentence you used for Mr Gazal could be interpreted in a far more benign fashion than you have given it?

Mr DOUGLAS: Mr Ryan, in the conversation I had I was so aghast at it I did not believe it was benign and it is in my view impossible for me to have misunderstood what he was saying.

The Hon. JOHN RYAN: Can I put to you that those words alone would not convey to anyone with any finality that it was an either/or position or a threat? What else in the conversation made you think it was a threat?

The Hon. AMANDA FAZIO: And you might want to describe to us, Mr Douglas, whether it was also the manner, the tone in which it was said to you, whether that conveyed implications to you rather than or in addition to the actual words that were used?

Mr DOUGLAS: Yes. I have no doubt—I mean, I do not write file notes simply for the sake of it.

The Hon. JOHN RYAN: Mr Douglas, can I say that those words alone do not say what you say they say; there must have been something else that happened? I am not denying what you say is true. I am saying that without the additional evidence that you might be able to give us, on the face of it those words are ambiguous?

The Hon. AMANDA FAZIO: In your opinion.

The Hon. JOHN RYAN: They would be to anyone. The evidence may well be there. What other evidence have you got that tells you that you interpret these words as a threat? As the honourable member from the Government suggested earlier, was it the tone, was it something else said in the conversation, where it was?

The Hon. HENRY TSANG: Can I add—

The Hon. JOHN RYAN: No, you cannot.

CHAIR: No. You will get your chance.

The Hon. JOHN RYAN: What was it that made you think that this was a threat?

Mr DOUGLAS: The conversation in which those words were involved was probably 10, 15 minutes long, and I took out of it without any question, and from Mosca's comment I believe now this was a complete and straight threat for what it was.

The Hon. JOHN RYAN: But you cannot remember what those words were that would have made you believe—I am not asking you a question that somebody else would not ask you?

Mr DOUGLAS: No, and it is a reasonable question. Mr Ryan, all I can say is I felt so strongly pressured or concerned I wrote this file note straight afterwards from my notes, handwritten notes. I then spoke to three people. I think you can take from that, from my background particularly, I was under no illusion. Now, whether your construction is more valid than mine, all I can say is I was there and that is how I read it at that time.

The Hon. JOHN RYAN: Let us imagine for a moment that you had come to the conclusion when you were having this conversation with Mr Gazal that he was making to you a veiled threat. Why did you not say to Mr Gazal words to the effect "Are you threatening me? Is this what you mean?" Why did you not seek further clarification at the time?

Mr DOUGLAS: Because I was so astonished.

The Hon. JOHN RYAN: Did you have somebody else with you at the time the conversation occurred?

Mr DOUGLAS: No.

The Hon. HENRY TSANG: Madam Chair, can I for clarification—

The Hon. JOHN RYAN: I put to you it is pretty astonishing that you as a very senior officer at Liverpool council is sitting in a room with somebody you believe is threatening you, they say words—I am using the first person—"I am not going to sign that until I have finality on Orange Grove" and you are telling me that that sentence alone alerts you to the idea that you are being threatened?

Mr DOUGLAS: No. It was not the sentence; it was the whole conversation and the way in which it came about. I have got no doubt that that is what was said. I have got no doubt that I interpreted it correctly.

The Hon. JOHN RYAN: When Mr Mosca had his conversation with you about the mega centre did he explain to you that he had had a meeting with Mr Turrisi immediately before speaking to you and Mr Turrisi had explained that there might be problems about Orange Grove?

Mr DOUGLAS: No. It was more along the lines that I have characterised before, you know, if Weston's advice carries through. Where that came from I do not know.

The Hon. JOHN RYAN: Did you say to Mr Mosca when he had this conversation with you, "Do not do anything rash. Let us wait and see what the planners say"?

Mr DOUGLAS: No.

The Hon. JOHN RYAN: Why, if you thought—

The Hon. HENRY TSANG: Madam Chair, I draw to your attention the fact that we were supposed to have 15 minutes of questions. It has been half an hour and Government members have not at this stage had a chance to ask questions or to seek clarification.

The Hon. JOHN RYAN: Government members will have an opportunity to ask questions. We will wait and we will give you plenty of time.

The Hon. HENRY TSANG: I am only seeking clarification.

The Hon. JOHN RYAN: It is fairly obvious that we are receiving some pretty important evidence. I think we have to go through this.

The Hon. AMANDA FAZIO: And you are trying to badger the witness into—

The Hon. JOHN RYAN: I am not badgering him at all.

CHAIR: Order! Let Mr Ryan continue with his line of questioning and I will then call on other members.

The Hon. HENRY TSANG: Can you draw a time line? How long is he likely to have?

The Hon. JOHN RYAN: No, I cannot. But I hope to be finished in about 10 minutes or so.

The Hon. HENRY TSANG: Can you not at least let us ask some questions?

The Hon. JOHN RYAN: I will wait here until you have asked every question you want to ask, Mr Tsang.

The Hon. AMANDA FAZIO: That is fine, but I want to make sure that Mr Douglas has the time available to stay here.

The Hon. JOHN RYAN: I think Mr Douglas has tossed this dice. He is obliged to stay. If not, we will see him again.

The Hon. AMANDA FAZIO: How dare you take that attitude!

CHAIR: Order!

The Hon. AMANDA FAZIO: All he has done is give evidence that you do not like.

The Hon. JOHN RYAN: No, I do not like or dislike his evidence.

CHAIR: Order! Let us get on with it.

The Hon. JOHN RYAN: I am obliged to test it. Mr Douglas, do you believe then that the approval given for the Orange Grove matter, given your conversation, was corrupt? Was that your belief?

Mr DOUGLAS: I pass on that answer.

The Hon. JOHN RYAN: No, you cannot pass on that answer.

Mr DOUGLAS: I can, sir, and I have just done it.

The Hon. JOHN RYAN: You said that you were concerned that at the time it was corrupt. You knew that it had been approved. You must have come to the conclusion that it was under a cloud of some sort?

Mr DOUGLAS: I do not believe I have used the word "corrupt". I have been very careful not to.

The Hon. JOHN RYAN: You have not used the word "corrupt" but you have certainly given the Committee the impression that you were very concerned about the circumstances. It was approved under pressure and I think by inference it would be fair to say that it was approved under inappropriate pressure.

Mr DOUGLAS: Yes.

The Hon. JOHN RYAN: Why did you attend the opening of something that you believed had been inappropriately approved?

Mr DOUGLAS: It is interesting you know that I was there.

The Hon. JOHN RYAN: There is photographic evidence that has been given to me.

Mr DOUGLAS: Okay.

The Hon. JOHN RYAN: Mr Gazal obviously knows the roll and he has explained it to me. I am perfectly happy to be transparent with you. You were there.

Mr DOUGLAS: Yes, I was there.

The Hon. JOHN RYAN: I have a great picture of you having a nice drink with Mr Tony Pascale. You did not look to me like you were in a place that you felt in any way disturbed about.

Mr DOUGLAS: To be quite honest—

The Hon. AMANDA FAZIO: Point of order: I think the line of questioning that the Hon. John Ryan is going on with to my mind is attempting to try to intimidate the witness.

The Hon. JOHN RYAN: There is no intimidation at all.

The Hon. AMANDA FAZIO: I am taking a point of order. I am not asking for your gratuitous side comments.

CHAIR: Order! Just stick to the point of order, please.

The Hon. AMANDA FAZIO: My point of order is that Mr Douglas has come here and he has given us evidence. He has given us in quite clear language his concern about what had happened. He stated, "At the time I was involved." Since then the Hon. John Ryan's line of questioning seems to me to be simply attempting to undermine the evidence given by Mr Douglas. I think that is entirely inappropriate. I think raising issues like, "I have got a photograph of you and you do not look like you were under any pressure" is just inappropriate in the current circumstances. I think, if anything, it just goes to show the extent to which Mr Ryan has got in bed with Mr Gazal.

The Hon. JOHN RYAN: That is not a point of order.

The Hon. AMANDA FAZIO: That is a point of order.

The Hon. JOHN RYAN: In response to the point of order, I will be perfectly frank with you. I am being direct in my questioning and I am testing the evidence. I think that is what we are supposed to do. I do not think anything I have done to any extent has been unfair. They are questions that any reasonable person would have to put to Mr Douglas.

The Hon. DAVID OLDFIELD: To the point of order: Madam Chair, it seems fairly clear to me, with no besmirch upon the witness, that Mr Ryan is testing evidence that he finds to a degree to be unbelievable.

The Hon. JOHN RYAN: I am not.

The Hon. DAVID OLDFIELD: Or perhaps questionable. Certainly from the portrayal of this gentleman here today, Mr Douglas, it is fairly evident to me that he has given the impression of great concern at having been here. He is quite disturbed at having to make various disclosures. He is concerned with and has difficulty with regard to what has been done with ICAC so far and what he may or may not, or should not or shall not be saying, et cetera. All of that gives the impression of exactly what Mr Douglas has tried to convey, that is, that he is very concerned about the matter. I certainly can understand the issue of the photograph being raised. If you genuinely have so much concern, if you genuinely, despite not wanting to say it, feel that there is some corrupt matter, et cetera, you hardly go along to celebrate the opening of something that you thought was brought about by such nefarious means. So I can certainly understand the raising of the photograph.

The Hon. JOHN RYAN: You might. I am just putting it to Mr Douglas.

The Hon. DAVID OLDFIELD: You might, but I would not. I do not know whether Mr Douglas would. I have the impression from Mr Douglas, certainly in the form of personality that he has attempted to convey to

us today, that if he had the personality that he has attempted to convey to us today he would not go along and be celebrating this terrible, corrupt centre that has been opened.

Ms SYLVIA HALE: To the point of order: I believe the point of order suggested that Mr Ryan was attempting to intimidate the witness. For the life of me I cannot see how he can possibly do that with the witness. There is no pressure that Mr Ryan can possibly bring to bear on him that would in any way intimidate him. So I think in the interests of trying to establish the weight or credibility that is to be attached to Mr Douglas's evidence that Mr Ryan should be allowed to proceed.

CHAIR: Order! There is no point of order. If we could proceed. We have been used to robust questioning, Mr Douglas.

Mr DOUGLAS: Madam Chair, I will be very happy to answer that question. I generally do not feel intimidated. I have been in front of a few courts in my life. There are two very simple facts. First, I went to see it because I had never been in it because obviously it had just opened. Second, I actually went to see Mr Gazal and Mr Mosca to ask them whether they were going to bid on the Westpac building which was coming up and which had just gone to auction. I met Mr Gazal but I did not speak to him. I spoke to Mr Mosca who said that they would not bid on it. They later did and council did. You know that Mr Gazal said we did not. We bid more than he did but we still did not get it. The second part of that answer is that you must appreciate I did not know how the thing was finally approved. I literally did not know. It is not my area.

I do not have to know. I made my point to the people that should know. I knew they were concerned. I was concerned about other issues going on in Liverpool, as came out in the Oasis inquiry in some detail, and I did not know. It is only when the Land and Environment Court came down and said, "It is unlawful", that I recorded my very deep concern, particularly when a court comes down and says everything I was concerned about at the time. So that is why I went. It was quite an open thing. I might add that I did not stay. You will not find any photographs of me after 11 o'clock when it opened. I am just telling you for the record that I left.

The Hon. JOHN RYAN: I do not know about the timing. It is important to go back—

Mr DOUGLAS: Sorry, with respect, if I can say, it just shows you my bona fides had nothing to do with whether I was going to celebrate or not. Yes, I did have a drink with Councillor Pascale, and that is fine. I probably would do even in that environment. But I left before it opened because I still had that doubt. But I went there specifically, first, to look at it and see what was it. Was it a factory outlet or was it what it ended up, a retail outlet? Second, I went to ask a very specific question and I got that answer.

The Hon. JOHN RYAN: All right. I go back to your comments about Mr Brian Carr requiring this thing to be dealt with in two weeks. I think, if I have noted correctly, your evidence to the Committee is that this is not something you have personal knowledge of; this is something reported to you by Mr Gerard Turrisi. Is that correct?

Mr DOUGLAS: That is correct.

The Hon. JOHN RYAN: So is it possible that Mr Carr might not have said those things?

Mr DOUGLAS: I have no idea. I am just telling you what Mr Turrisi said, so you can come to any conclusion you like.

The Hon. JOHN RYAN: I am just saying to you: Is there anything that you know of that would make it certain? Is there any other evidence that you have that would make you believe Mr Turrisi's allegation to you that the general manager had told him to approve this in two weeks? Is there anything that you have that can show the Committee that that was certainly happening?

Mr DOUGLAS: No.

The Hon. JOHN RYAN: Are you absolutely certain that Mr Turrisi referred it to Mr Brian Carr?

Mr DOUGLAS: I am.

The Hon. JOHN RYAN: And you are absolutely certain that he told you that Mr Carr had told him it must be approved in two weeks?

Mr DOUGLAS: But we are telling you that it was expected to be processed.

The Hon. JOHN RYAN: Do you recall when that conversation happened?

Mr DOUGLAS: No, but it would be within the two weeks, presumably.

The Hon. JOHN RYAN: Do you recall what Mr Turrisi said about that proposition?

Mr DOUGLAS: He had not come to any view of whether he would exercise his discretion on the application and in any event other information was required.

The Hon. JOHN RYAN: I guess we need to get clarification of that. You are saying to the Committee that Mr Turrisi was giving serious consideration to approving it within two weeks, according to the general manager's request to him?

Mr DOUGLAS: I cannot confirm what was in Mr Turrisi's mind. He simply said that he had been asked to process it within two weeks, or expected to process it within two weeks. He had at that stage come to no firm conclusion of what decision he would come to.

The Hon. JOHN RYAN: So this must have been within a period of less than two weeks from the time the development application was lodged?

Mr DOUGLAS: That is how I would read it. My discussion with him was on 12 June. If I understand it, it was lodged on 6 June.

The Hon. JOHN RYAN: So that is a week later. The additional information you referred to could well have been advice he had sought from Mr Chris Weston?

Mr DOUGLAS: I do not know about that at the time, but I would now read it as being the economic study.

The Hon. JOHN RYAN: There is no way that you could produce an economic study in two weeks.

Mr DOUGLAS: Correct.

The Hon. JOHN RYAN: What led you to have this conversation with Mr Turrisi?

Mr DOUGLAS: The conversation with Mr Gazal. I literally put the phone down and went straight through to Mr Turrisi.

The Hon. JOHN RYAN: Why did you go to Mr Turrisi?

Mr DOUGLAS: He is the planner handling it. I then went to the acting general manager and I then rang council.

The Hon. JOHN RYAN: Did the general manager interview Mr Turrisi about it?

Mr DOUGLAS: I have no idea what happened after it.

The Hon. JOHN RYAN: So to the best of your knowledge you were asked no more questions about that at all by Mr Carr?

Mr DOUGLAS: No. I spoke to Mr Heapy, the acting general manager.

The Hon. JOHN RYAN: Yes.

Mr DOUGLAS: No. Nobody came near me in respect to this.

The Hon. JOHN RYAN: Was Mr Carr on leave prior to this development application being lodged?

Mr DOUGLAS: I have no idea. He certainly was not in the building.

The Hon. JOHN RYAN: If Mr Carr is supposed to have said to Mr Turrisi, "I want this approved within two weeks", it would be necessary for council records to show that Mr Carr was on duty at the time, would it not?

Mr DOUGLAS: He may have been just away for the day. As I said, Mr Heapy automatically took over when Mr Carr was away.

The Hon. JOHN RYAN: Surely this was a matter of concern. He was only off for a day. Would it not have been worth waiting until the general manager arrived?

Mr DOUGLAS: Yes. I am speculating, I am sorry. I do not know if he was away on leave. I do not know if he was at a conference or away for the day. I am misleading you and I do not intend to.

The Hon. JOHN RYAN: Earlier in your evidence—and I am obliged to ask you these questions partly because of the nature of the evidence that you have already given—you described Mr Mosca I think as a drama queen of the first order. I think those might have been the words that you used. Before I go back to that, did you ever say to Mr Mosca in a conversation that you said that you had with him, words to the effect, "I have also told Westfield that they cannot use Orange Grove as a bargaining chip." Did you use those words to Mr Mosca?

Mr DOUGLAS: No.

The Hon. JOHN RYAN: Are you aware of any attempt by Westfield to use its capacity to sue—you were of course at the same time engaged in some negotiations with Westfield about the sale of some land, where you not?

Mr DOUGLAS: Yes.

The Hon. JOHN RYAN: Is it at all possible that a proposition was put to you by Justin Lynch or somebody from Westfield that they might use their concerns about Orange Grove as a bargaining chip with the council?

Mr DOUGLAS: It was the other way round.

The Hon. JOHN RYAN: You might explain to the Committee.

Mr DOUGLAS: Later, much later—like 2003—when they commenced their action, Justin Lynch mentioned to me that they had started action in the Land and Environment Court in respect to Orange Grove. At the same time they were still negotiating with us about Northumberland Street closure, and I told him that I felt he was very unwise in taking action on the one hand and trying to do a deal with council. I just thought that it would be misinterpreted, and that is the extent of the conversation. We never discussed it any longer than that.

The Hon. JOHN RYAN: So it was a proposition raised by you?

Mr DOUGLAS: Yes, the other way round but just as a throwaway line, this is a very funny time to be doing something like that.

The Hon. JOHN RYAN: The action that Westfield took was not against Liverpool council; it was against Mr Gazal.

Mr DOUGLAS: Liverpool council was the second respondent.

The Hon. JOHN RYAN: Why do you think it would have been inappropriate to have had the two going at the same time?

Mr DOUGLAS: It was just a throwaway line on the lines that you are trying to do a major deal for your needs and you are suing council as well. It is very bad timing. The reality is that they had no choice in the timing.

The Hon. JOHN RYAN: Is it possible that you might have mentioned that to Mr Mosca in a conversation?

Mr DOUGLAS: No. I would have never discussed Westfield. I do not discuss Mosca with Westfield or Westfield with Mosca.

The Hon. JOHN RYAN: Is it a fact that Mr Brian Carr, the general manager of Liverpool council, and you had some differences of opinion on a large number of matters concerning Liverpool council's management?

Mr DOUGLAS: Concerning management and Oasis, yes.

The Hon. JOHN RYAN: Were you ever in a position that you were offered the opportunity by Councillor Wendy Waller that if Mr Carr was no longer the general manager, you were offered the opportunity to become the general manager of Liverpool council?

Mr DOUGLAS: No. That would be a hospital pass of the worst variety.

The Hon. JOHN RYAN: So that proposition was never made to you.

Mr DOUGLAS: No. I think it is very unlikely that ex Councillor Waller would even make that proposition.

The Hon. JOHN RYAN: Did you ever apply for a position as a corporate manager at Liverpool council?

Mr DOUGLAS: Yes I did.

The Hon. JOHN RYAN: Were you successful in that appointment?

Mr DOUGLAS: No.

The Hon. JOHN RYAN: Did you as a result have a difficult relationship with the successful person on that council, Mr Lamont?

Mr DOUGLAS: Not particularly.

The Hon. JOHN RYAN: Were you ever warned by Mr Carr on any occasion that you had a tendency to make flippant and reckless remarks and submit unsubstantiated opinions?

Mr DOUGLAS: Not that I ever recall.

The Hon. JOHN RYAN: Do you ever recall having a conversation of that nature in the presence of Mr Eric Heapy with Mr Carr?

Mr DOUGLAS: No I do not.

The Hon. JOHN RYAN: Do you recall sending correspondence to Mr Col Gellatly and Mr John Dermody regarding the proposal of Woodward Park, with which Mr Carr later had to send subsequent correspondence because he was concerned that the language you had used in the correspondence was either inappropriate, inflammatory or unhelpful?

Mr DOUGLAS: The only correspondence I had with Dermody or Gellatly was correspondence all approved by Mr Carr.

The Hon. JOHN RYAN: You do not recall sending some correspondence that he had not approved, with which he then had to send a subsequent letter because there had been complaints from Mr Gellatly and Mr Dermody about the time of your correspondence?

Mr DOUGLAS: I recall an argument about one letter, one of which Mr Carr was fully appraised and fully involved, saw all the drafts.

The Hon. JOHN RYAN: Before and after?

Mr DOUGLAS: Before, obviously.

The Hon. JOHN RYAN: You were concerned about a piece of correspondence—you do recall some concern about that?

Mr DOUGLAS: I recall a piece of correspondence that went to Mr Dermody that he was upset about.

The Hon. JOHN RYAN: Can you tell the Committee what that correspondence was about?

Mr DOUGLAS: It was about the land purchasing on Woodward Park.

The Hon. JOHN RYAN: What was Mr Dermody concerned about?

Mr DOUGLAS: I did not like that we were reminded of agreements and previous correspondence between the Department of Lands, or DLORC as it was then, and council over some years.

The Hon. JOHN RYAN: Are you aware that Mr Peter Wright of Macquarie Bank at some stage had informed Mr Carr that he was not prepared to work with you any further because he was worried about "erratic behaviour"?

Mr DOUGLAS: No.

The Hon. AMANDA FAZIO: We had a point of order raised earlier in relation to questions that I asked people—the point of order was that I had to verify information behind questions. What is the basis of the Hon. John Ryan's questions? Do you have any documents, or are you making this up willy-nilly?

The Hon. JOHN RYAN: No, I do not have any documents.

The Hon. AMANDA FAZIO: So this is scuttlebutt, is it?

The Hon. JOHN RYAN: No, I do not believe so. In fact, Mr Douglas has confirmed some of it.

Mr DOUGLAS: The Hon. John Ryan, if you are trying to do a character assassination, because it sounds as if you have a list of a litany of things, it does not work that way.

The Hon. JOHN RYAN: I am not trying to do a character assassination on you; I am simply trying to raise with you issues that I think will be raised by people that you have made allegations about.

The Hon. AMANDA FAZIO: Raised where?

The Hon. JOHN RYAN: I think it is fairly obvious. I think that Mr Brian Carr has a very different view about Mr Douglas' evidence.

Mr DOUGLAS: Mr Carr was not there, that is the point.

The Hon. JOHN RYAN: But Mr Brian Carr was the general manager during the time of the events that you have described to the Committee.

Mr DOUGLAS: At the time Mr Carr and I were getting on very well when this happened, June 12th.

The Hon. JOHN RYAN: Can you described to the Committee the circumstances under which you were ultimately asked to leave the council?

Mr DOUGLAS: I was not ultimately asked to leave at all. That is the wrong assertion, I am sorry.

The Hon. AMANDA FAZIO: Point of order: The Hon. John Ryan took numerous points of order on me before complaining about leading questions. He is just doing the same thing, only it is not as effective.

The Hon. JOHN RYAN: I am not worried about the point of order. I will rephrase the question. Why did you leave Liverpool City Council?

Mr DOUGLAS: The Daly report came down, I think in August—you probably have the date better than I do.

The Hon. JOHN RYAN: I have not read the Daly report. It is not relevant or germane to the Committee's terms of reference.

The Hon. AMANDA FAZIO: According to him.

Mr DOUGLAS: The Daly report came down and said that my appointment by Mr Carr and Mr Heapy had happened unlawfully and therefore it had to be resolved was the recommendation by Professor Daly. I had a conversation with the current general manager and said, "Look, this is a piece of history." I was appointed primarily to do Oasis. Oasis is now gone. I have a contract which is not void despite Professor Daly's comments. It certainly came about in a way that Professor Daly said Mr Carr and Mr Heapy had not done correctly. So in conversation with Mr McCully we agreed that I would leave about two months ago, which I have done. I am sorry if you see that as casting an aspersion on me. I do not believe Mr McCully would see it that way.

The Hon. JOHN RYAN: That is fine. I am simply putting the questions to you—

The Hon. AMANDA FAZIO: As he has been given them.

The Hon. JOHN RYAN: I would not be the first person who has been putting questions that I have been given, I say with great respect to the honourable member. Prior to working with Liverpool council were you not the general manager of Sydney City Council?

Mr DOUGLAS: Correct.

The Hon. JOHN RYAN: Did you make allegations about Frank Sartor, the mayor, after you left that council?

The Hon. AMANDA FAZIO: Point of order: We are dealing with the Orange Grove factory outlets centre and inquiring into that. I do not believe that the question asked by the Hon. John Ryan is in any way relevant to the terms of reference. It may well be yet another plank in his attempt to undermine the credibility of Mr Douglas or to cast aspersions on his character or on his professional standing within the local government sphere. But I think it is entirely inappropriate and I ask you to rule the question out of order.

The Hon. JOHN RYAN: To the point of order: First, I will deal with the matters raised by the member in reverse. I am not attempting to undermine Mr Douglas' character. I am simply, under robust questioning certainly, putting things to him which I believe are relevant to both the evidence he has presented today and what I believe will be raised with regard to his credibility.

The Hon. AMANDA FAZIO: Will be raised where?

The Hon. JOHN RYAN: I will finish what I am saying first. Therefore, it is necessary to in fact test Mr Douglas, as we often do with witnesses in terms of, first, what they said and, second, who they said it to. Secondly, the issue of any witness who comes to the Committee and makes the assertions and allegations that Mr Douglas has made are obviously—it would not matter whether this was the ICAC, the police or anyone, obviously one of the things that is relevant to assessing them is the person's credibility. The question I am asking, I guess, goes to credibility. He has, as I understand it, when he left Sydney City Council he made some

allegations about Mr Sartor. I have not asked him to outline what they are; I am simply asking him to say whether he did that.

The Hon. AMANDA FAZIO: And I am saying, and I will speak further to the point of order, that that is clearly out of order. In terms of your very tenuous attempt to link the question to the issue of Mr Douglas' credibility, that just does not stand up at all.

The Hon. JOHN RYAN: Well, it does.

The Hon. AMANDA FAZIO: So I would ask the Chair to rule the question out of order. Questions obviously relating to Mr Douglas' employment at Liverpool City Council are in order, but questions relating to his previous employment and what he may or may not have done after that was terminated have nothing to do with the Orange Grove project.

The Hon. JOHN RYAN: Questions relating to his previously making allegations of a similar nature while he worked for another council are absolutely relevant when a witness comes before this Committee and makes allegations. It is a question that has to be asked. It would not matter whether I asked them; they would be asked in another venue anyway.

The Hon. AMANDA FAZIO: Well they can be asked in another venue.

CHAIR: Mr Douglas himself at the outset gave a brief summation of his record in local government and made the comment that he was, as far as he is concerned, a person with integrity. So I think that the question is in order. I think that is Mr Ryan's last question. I will ask Mr Douglas as a courtesy, we were running behind time when we called you on. I need to get an indication of how many more minutes you might be available.

Mr DOUGLAS: If I could make a phone call quite quickly, I can be available whatever time you need.

CHAIR: The Hon. John Ryan, if you could ask your final question and then we might adjourn briefly so you can make that phone call and then proceed.

The Hon. JOHN RYAN: Did you make allegations about Mr Sartor when you left Sydney City Council or while you were there, and what was the nature of those allegations and what happened about them?

Mr DOUGLAS: I most certainly made no allegations while I was there, and I have an arrangement with Sydney not to discuss my employment while I was there, and nor can Mr Sartor. I may have made casual comment to people in casual environments about times when I was there, but if you are saying did I make an allegation of corruption two things could happen. One is I cannot recall anything like that, and the other is that if I did you can be sure it would be a fact.

The Hon. JOHN RYAN: What was the purpose of a confidentiality agreement on leaving Sydney City Council?

Mr DOUGLAS: It is the general standard clause that you have in it. I have a standard clause in my departure agreement with Frank that he will not talk of my time and I will not talk of his time. I was quite happy signing that, and I have.

The Hon. JOHN RYAN: So you have not made allegations of inappropriate conduct or misconduct on the part of Mr Sartor arising from your employment at Sydney City Council?

The Hon. HENRY TSANG: Can I make a comment? I have been here one hour. I am not even allowed to speak.

The Hon. DAVID OLDFIELD: We have been here for two months.

The Hon. JOHN RYAN: That was my last question but, sadly, your comment—

The Hon. DAVID OLDFIELD: You interrupted the answer.

The Hon. JOHN RYAN: —prevented Hansard from recording Mr Douglas' answer.

The Hon. HENRY TSANG: I am trying to say that because it relates to the city of Sydney I want to make a comment relating to the city of Sydney in my time there.

The Hon. JOHN RYAN: I do not think Hansard got Mr Douglas' answer because I do not think it was verbal.

Mr DOUGLAS: I am not permitted under the agreement to make any comments with respect to that, and if I did they would be done quite properly.

The Hon. JOHN RYAN: I think my question was: Have you ever accused Mr Sartor of misconduct or corruption since leaving the council?

The Hon. AMANDA FAZIO: Mr Douglas has just explained for the third time that he has a confidentiality agreement and he cannot breach it by answering the question.

Mr DOUGLAS: I have commented to people in general conversation about my time at Sydney but I am not about to here or anywhere else make any comments with respect to Mr Sartor.

The Hon. HENRY TSANG: I have been patient for one hour, and a Government member is not allowed to ask a question. All I want is one question.

CHAIR: No.

The Hon. HENRY TSANG: Because of my time in the city of Sydney, can I be allowed to ask one question?

The Hon. JOHN RYAN: Perhaps we can let the witness make his phone call and then you can ask all the questions you like. We brought this witness here because your Premier said we would not have any credibility unless we did.

The Hon. AMANDA FAZIO: And you have spent your whole time trying to undermine his credibility.

The Hon. DAVID OLDFIELD: Anyone that your Premier recommended automatically came with some concerns.

CHAIR: Order!

The Hon. HENRY TSANG: I just ask whether you will allow me to make a contribution.

CHAIR: We are going to have a brief adjournment so Mr Douglas can go and make his phone call and then we will resume the hearing. Government members and crossbench members will have some questions.

(Short Adjournment)

The Hon. HENRY TSANG: Can I just say that when I was asking for your permission to make a comment, I was trying to comment on the recent function at the town hall in respect of the immediate past general manager who has committed suicide. The then Lord Mayor, Frank Sartor—

CHAIR: I am happy to hear from you and I am going to allow you to speak but I point out that normally members do not make statements at committee hearings.

The Hon. HENRY TSANG: I was just saying in relation to all those lines of questions asked of the witness about comments made about the then Lord Mayor, Frank Sartor, Frank himself at a special function in respect of the former general manager who has committed suicide has said that. He has revealed that he himself was often addressed by the then general manager as Frankenstein. So there are comments made of Frank because of his flamboyant way of administering the council so, therefore, it is not inappropriate that people would make comments of Frank, the Lord Mayor.

The Hon. AMANDA FAZIO: Mr Douglas, you said earlier in your introductory comments that you were employed by Liverpool council on contract just to work on this proposal related to the Oasis development, specifically in relation to the Scott Street site and the relocation of council chambers to there, and that the daily report came down and said that your engagement had not been proper. Did you ever have that issue raised with you at any time during your employment at the council, that the proper arrangements had not been gone through in terms of engaging you?

Mr DOUGLAS: No, it was never raised. Indeed, at the daily report Mr Brian Carr and Mr Eric Heapy's evidence to Professor Daly was that they believed it was all properly done and until that inquiry there was no suggestion otherwise. In itself it did not end my arrangements. I still had a contract on foot. It was not void as a result of that, it has just had an interesting history. What had changed, of course, was Oasis.

The Hon. AMANDA FAZIO: Can I go back to the comments that you made about your response to the discussions about the need, as expressed by Mr Mosca and Mr Gazal, for the Orange Grove development having to go through or they would be pulling out of the Scott Street proposal. Had you ever before confronted an issue where you felt compelled to write a file note in the terms that you did in response to that?

Mr DOUGLAS: No, this was completely unique to me.

The Hon. AMANDA FAZIO: You have said that you were aware that Mr Turrisi had also had similar comments made to him about the need for, and had pressure applied to him by Mr Mosca about the need for, the Orange Grove development to be approved. Were you aware of any discussions that Mr Mosca and/or Mr Gazal had with any other person representing Liverpool council about these matters?

Mr DOUGLAS: No, I did not. I mean Mr Mosca had a habit, as I have indicated, of ringing everybody in sight on all sorts of things, so it was just a normal process for him. In terms of Mr Gazal, I am not aware that he would have known anybody else in council, let alone contacted them. I do not believe—certainly I have got no information to suggest that he did.

The Hon. AMANDA FAZIO: In your position in Liverpool council office did you ever hear these matters being discussed together by council planners or other council staff or the former mayor or any councillors?

Mr DOUGLAS: No, I did not. The only conversation with any councillor that I was aware of was my own conversation with Councillor Buek with respect to this matter.

The Hon. AMANDA FAZIO: That was when you informed him about your concern about the pressure being placed on council officers and staff?

Mr DOUGLAS: On staff, yes.

The Hon. AMANDA FAZIO: What was his response to your comments on this matter?

Mr DOUGLAS: I am just going back now on memory really because I did not make a particular note of it. I think he just said words to the effect "Oh, we will just work it out as it comes through", because at that stage the DA had not been determined in any way.

The Hon. AMANDA FAZIO: You said that as part of the consideration of the DA an economic study was done and that you were contacted to provide some CBD statistics for use in that study. Do you regard the preparation of that economic study as being usual?

Mr DOUGLAS: An economic study would be virtually mandatory, although not mandatory in law, but it would be very usual in an LEP amendment to move a piece of land from one zoning to another. It is extremely unusual for a DA.

The Hon. AMANDA FAZIO: Do you think that the time frame for the economic study was also unusual?

Mr DOUGLAS: I don't finally know what the time frame was. As I understand it the DA took a long time finally to come through. The two weeks became a nullity and Mr Hirst reported in due course and that was considered by Mr Turrisi.

The Hon. AMANDA FAZIO: I know that you have given the Committee a fair degree of detail about your phone conversations on 12 June 2002 but is the information contained in the newspaper article dated 20 September 2004 substantially correct?

Mr DOUGLAS: I am sorry, I do not have it in front of me and I can't recall until I have read it. I should quickly add that that article did not come from me.

The Hon. AMANDA FAZIO: I think you have stated that before. Given that the council knew of your concerns documented by you at the time that this conversation took place, what do you have to say about the conduct of the council given that it did not refer the LEP to the State Government for consideration until 13 April 2004, which was some months after your complaint was lodged?

Mr DOUGLAS: Well, I am on record within council as being profoundly concerned about retrospective LEPs. I will distinguish between that as a principle and the issues of the jobs and the people as a related but separate issue. There were two issues which I raised and had quite bitter discussions with some staff: one was retrospectivity, which is again to me professionally never done, and secondly, it was combined with Cross Roads. As you may know, the Orange Grove centre is about one kilometre north of the CBD. Cross Roads is an AMP superannuation industrial site some five or so kilometres south.

Because one of the areas I was dealing with was economic development, AMP had approached me maybe 18 months ago for a rezoning and asked me down to their meeting at their building at Circular Quay. I said to them in my view we were short of industrial land and this was not a necessary thing to get more retailing—they were also talking supermarket—outside of the already zoned areas. But I did say, in any event it is a matter for Mr Turrisi, not for me. I was involved in the economic development, not in the zone changing. Whatever they did I don't know, but nothing happened.

What then happened after the judge was being fairly clear to the council officers during the first hearing in the Land and Environment Court, council officers and councillors, presumably—I don't know but officers certainly, the council was still in place—clearly felt that retrospective was a good idea and to put it together with Cross Roads at the same time. Now you have got to imagine Liverpool with a struggling southern CBD, an expanding vacuum cleaning Westfield, to put two DFOs in one small area is not a good idea.

Now Mr Ryan spoke about my relationship with Mr Lamont. I would have to say that was one area where I had a very strong disagreement with Mr Lamont. He came with no experience in the government and suddenly thought this was a good idea which I could not support, and didn't and still don't. Now the administrator of Liverpool council, Gabrielle Kibble, within weeks of her arrival, kicked out the DFO idea of Cross Roads as an absolutely stupid thing to do. I remember her saying that it was crazy in a conversation with me. She thought it was silly too. I guess all I am saying is that council moved to try to fix its insurance problem by retrospectivity. Now in one sense as a ratepayer—well, not a ratepayer in Liverpool but if I were a ratepayer—I would be interested in that and in another sense it was a process of misusing a council initiated process to fix an insurance problem.

The Hon. AMANDA FAZIO: When you were involved in negotiating the memorandum of understanding between the council and Mr Gazal, to whom did you report?

Mr DOUGLAS: I reported to Mr Carr on the one hand and to councillor Beuk on the other. Beuk as required, and specifically monthly, and Mr Carr irregularly and informally usually.

The Hon. AMANDA FAZIO: So you didn't report to the mayor at all in relation to these matters?

Mr DOUGLAS: Oh yes, I would've talked to the mayor, again, irregularly. You don't really have formal meetings with George. And he was very aware of this. You've got to remember, the moving of the council site to the southern CBD was tied up in the dream of Oasis. So George was all for it because of the Oasis process and Professor Daley's comments all through you will see how that dream drove council into extraordinary

wrong-headedness. And Mr Daley, right through, is very very critical of councillors and I think his word was "obsession" with this matter, and this was tied into that obsession.

The Hon. AMANDA FAZIO: Okay. Can I ask you, did you ever discuss the concern that you raised about the phone conversations on 12 June 2002 with Mr McCully, the former mayor, Mr Paciullo or any other councillor or officer?

Mr DOUGLAS: No. As I indicated before, once the twelfth was over and I'd done what I felt I had to do at the time we—the DA hadn't been finished and therefore that process was being taken through—I went on to other matters. You may recall the salary cap scandal occurred in August and prior to that I was doing what was called the supplementary agreement, which was yet another agreement with the Bulldogs to try to sort out the two first agreements. So all the focus was going in there. Then we had an ICAC inquiry, then a Liverpool public inquiry and then the council in turmoil and what have you. So these things really never surfaced until, as I have indicated, the Land and Environment Court decision and then I recalled this and immediately within a day of that decision spoke to Mr McCully.

The Hon. AMANDA FAZIO: Okay. Would you agree that if the suspicions had not been raised in recent times about the original approval process for Orange Grove, your complaint relevant to the process would not have been pursued?

Mr DOUGLAS: Oh, absolutely. I mean, unless the L and E court, you know, unless—given the L and E court has reminded me to do something, as it were, if the L and E court hadn't come down and Orange Grove trundled along nothing would have happened because I would have not even clipped the two items together.

The Hon. AMANDA FAZIO: Can I just ask you, based on your experience working in other councils have you encountered other people whose methods of interacting with council staff were similar to that used by Mr Mosca?

Mr DOUGLAS: I was responsible for putting together DCP 30, which, as I said, is the CBD new development control plan. Mr Mosca is a big fish in a small pond and he is very well connected, and to certain councillors. I have never seen that connection, ever, in my experience.

The Hon. AMANDA FAZIO: Thanks. I have no more questions at the moment.

CHAIR: Thank you. Sylvia?

Ms SYLVIA HALE: Yes. Mr Douglas, you obviously have a long history in local government. Was it more in the corporate affairs or was it in planning?

Mr DOUGLAS: I've been city planner. I've been corporate affairs. I've done everything in local government, except engineering.

Ms SYLVIA HALE: Okay. So you found an interpretation of an LEP or, at least I think—and I hope I am not misquoting you—an interpretation that if something is not prohibited then it could be considered. You found that quite an extraordinary interpretation and one that you had never ever encountered before?

Mr DOUGLAS: No, that's quite common in subordinate legislation to have that, but as I indicated, it's mainly for editorial things. You know, the little things that—technology changes or something like that. It's not for rezoning. The extraordinary thing for me is that you could do a rezoning.

Ms SYLVIA HALE: So you have never heard of another council adopting that?

Mr DOUGLAS: Not as boldly as this one, this position.

Ms SYLVIA HALE: It surprises me, because whilst I was only on a council for eight years I do remember encountering that interpretation by the officers of Marrickville Council, which, admittedly was a Labor-controlled council, and I remember speaking quite heatedly against it. So it surprises me that I should have encountered it but you, with your extensive experience, should not.

Mr DOUGLAS: No.

Ms SYLVIA HALE: Okay.

Mr DOUGLAS: I'm sorry. I'd be interested to know—not now, obviously—the detail because it could be just they were, like you do the zoning map and you'd leave one shop off. Of course—

Ms SYLVIA HALE: No, no. This was—

Mr DOUGLAS: —you know, that happens.

Ms SYLVIA HALE: —a question of whether some sort of group housing—because it was not forbidden within an LEP it was interpreted as being permitted.

Mr DOUGLAS: No, I could perfectly understand group housing fitting into residential zone under certain circumstances that fit with medium density or something like that. Absolutely understand that. Yes, I agree. And for me that's not a—that's editorial. This was a zoning change, industrial to retail. I've never seen that.

Ms SYLVIA HALE: But it was my understanding that the LEP at Liverpool permitted bulky goods.

Mr DOUGLAS: Yes.

Ms SYLVIA HALE: And that the question was whether a designer factory outlet could be interpreted as being a bulky goods development.

Mr DOUGLAS: Yes.

Ms SYLVIA HALE: So therefore if you interpreted the definition, the designer factory outlet as being a form of bulky goods mainly because it occurred in a warehouse and it was the type of presentation and the means by which the actual retailing occurred, if you interpreted that as fitting within the definition then that was—it wasn't a change of zoning. It might have been an extension of the meaning of the zoning, but not a qualitative change in the zoning.

Mr DOUGLAS: It wouldn't convince me. I don't think underwear sales and shoe sales and what have you could be characterised as bulky goods in any sense of the word. I might add the megacentre, the bulky goods centre, has people that sell phones and phone cards.

Ms SYLVIA HALE: That is right.

Mr DOUGLAS: And that's wrong and council should shut that component down.

Ms SYLVIA HALE: And people selling beds and things are able to sell sheets, and Harvey Norman able to sell CDs.

Mr DOUGLAS: I think there's a whole different argument here, and you might want to even consider it as one of your recommendations, about whether—how bulky goods are handled. I understand DIPNR's looking at it anyhow. Because there is an argument about that you don't need bulky goods at all, that all retail centres can cope with it. It is simply people won't pay those sorts of rents and that's what it comes down to. Now, to be fair to Liverpool, Liverpool CBD is actually quite a constrained one and to put in a bulky goods into the CBD you'd actually have to change the depths of the zoning. But there's an argument both ways on that.

Ms SYLVIA HALE: But the point I am making is that in fact it is a question of interpretation of a definition that was at stake and that—I can remember asking Mr McCully, when he gave evidence, whether he would have made the decision in retrospect, if he had been there.

Mr DOUGLAS: Yes.

Ms SYLVIA HALE: And he said that whilst he, himself, might not have made it, he believed he could—after discussions with the planner who did make it—understand why the planner came to that conclusion. So it does seem to me that it is not a sort of black and white issue.

Mr DOUGLAS: It is to me.

Ms SYLVIA HALE: Okay. Now, you say that you made his personal file note after you had a conversation with Mr Mosca. That was on 12 June 2002?

Mr DOUGLAS: No. I made the personal file note in respect to Mr Gazal.

Ms SYLVIA HALE: So when did you have a conversation with Mr Gazal? What date was that?

Mr DOUGLAS: 12 June.

Ms SYLVIA HALE: Sorry, it was with Mr Gazal.

Mr DOUGLAS: Yeah.

Ms SYLVIA HALE: And on the twelfth—so that was around about half past 10? Sorry, I am trying to—

Mr DOUGLAS: Yeah.

Ms SYLVIA HALE: In the morning?

Mr DOUGLAS: Yeah, about that. Yeah.

Ms SYLVIA HALE: And then you wrote the file note? And then you went to see Mr Heapy because Mr Carr was not—

Mr DOUGLAS: Yeah. I wrote the file note. Spoke to Mr Turrisi first, Mr Heapy, then rang Councillor Beuk and sent a copy of the file note through to Mr Heapy.

Ms SYLVIA HALE: Did you send one to Mr Beuk at all?

Mr DOUGLAS: No.

Ms SYLVIA HALE: Okay. Because you thought it was of sufficient importance for you to want to raise it with, presumably, the acting head of the council?

Mr DOUGLAS: Yes, because I reported at that stage to the general manager, in that case acting general manager.

Ms SYLVIA HALE: Sure. And you are saying that until the Land and Environment Court handed down its decision in late 2003 you did nothing more after that?

Mr DOUGLAS: That's right.

Ms SYLVIA HALE: Between June 2002 and—when was the Land and Environment Court decision? About October, November, was it, 2003?

Mr DOUGLAS: I think you'll find it came down in—

The Hon. JOHN RYAN: January.

Ms SYLVIA HALE: January.

Mr DOUGLAS: Yeah, January 2004.

Ms SYLVIA HALE: So literally for 18 months, having made your complaint, having taken the time, been sufficiently concerned, you did not raise it at all?

Mr DOUGLAS: No.

Ms SYLVIA HALE: But, surely, there must have been discussion in the council about the decision to approve Orange Grove since council was obviously—Westpac had appealed to the Land and Environment Court and council—

The Hon. JOHN RYAN: Westfield.

Ms SYLVIA HALE: Westfield, and council had presumably defended its decision at the court.

Mr DOUGLAS: The decision was—sorry, the DA was approved very quietly, and I don't say that uncharitably. It's just how it happened. It was just done and that was it and it was sent off and really nothing happened at Orange Grove for a while until the plans were formally done and then the work started. Westfield, I can't recall when they filed. You probably have a time line better than I do.

Ms SYLVIA HALE: Yes.

Mr DOUGLAS: And it was about then, or shortly afterwards, that Mr Lynch mentioned it, as I've indicated to Mr Ryan's answer to a question, that they were taking council to court as one of the respondents and, of course, that it took a long time to come through the court system. And I didn't think anything of it. The immediacy of the explosion or the implosion of the Bulldogs, you know, occupied my mind much more than worry about Orange Grove, which had seemed to have gone quiet because nothing had happened.

Ms SYLVIA HALE: You say you made this personal note and handed it to Mr Heapy. What was your—

Mr DOUGLAS: Sorry, I sent it through to Mr Heapy. I spoke to Mr Heapy and then sent it through later.

Ms SYLVIA HALE: And so you had no discussion with him?

Mr DOUGLAS: No, I told him about what the issue was.

Ms SYLVIA HALE: No, but that was prior to sending the written note.

Mr DOUGLAS: Yes.

Ms SYLVIA HALE: But you had no discussion with him after sending him that note?

Mr DOUGLAS: No. What he did with it I don't know. When he—

Ms SYLVIA HALE: You never asked him at all?

Mr DOUGLAS: No.

Ms SYLVIA HALE: But surely the obvious implication is that Mosca or at least Gazal is in some way bringing undue or inappropriate pressure to bear on the council. I think the adjective you used at one stage was that you were aghast at this. It was so outside your range of experience that you felt compelled to put your concerns in writing.

Mr DOUGLAS: Yes.

Ms SYLVIA HALE: And then you did not do anything about it, and that just seems to me to be almost a dereliction of your duty because if you were concerned about the behaviour, so concerned that you had to write

something, and nothing happens as a result or you do not follow it up any further, surely you should have perhaps contacted the ICAC or been interested in what had happened to this development?

Mr DOUGLAS: Yes, and if it is a dereliction on my part, I will take that responsibility. The reality is that I had given it to the people who I felt could manage it—the councillor responsible for planning and major projects, and the acting general manager responsible for the total organisation, and the planner responsible for the DA—and they may have, for all I know, both taken it into account and either ignored it in their judgment or acted on it, and ultimately that would have been fixed. It was not my area. Now I do not believe my role in the council is to go on crusades in respect of matters. I believed I had discharged my obligation within the council organisation correctly. If you suggest that I should have taken it to ICAC at the time, perhaps you are right. It frankly never occurred to me—well, in retrospect it never occurred to me.

Ms SYLVIA HALE: But you have suggested, or at least painted a picture of the council being somewhere where Mr Mosca, or Mr Gazal via Mr Mosca, was exerting great pressure on the council planners and officers. You said he was a very big fish in a relatively small pond. There must have been a perception that this behaviour could permeate and infect a lot of other council decisions.

Mr DOUGLAS: Yes, and later that was certainly the case, and later those things have been taken up.

Ms SYLVIA HALE: I just find it odd that you did not pursue it further, given the really very serious implications for the way the council was functioning.

Mr DOUGLAS: Yes. Well, I was relatively new at the council—I had been there for six months—and I do not think I really knew how—this was the first example I think I had seen of Mr Mosca's approach in true style. I am aware—well, yes.

The Hon. JOHN RYAN: You are aware of what?

Mr DOUGLAS: I cannot really say what I am aware of.

The Hon. JOHN RYAN: You cannot stop.

Mr DOUGLAS: Let me say I am—how do I say this? I am told that other matters have been drawn to ICAC's attention in respect to the relationship between elected members and external persons unrelated to Orange Grove.

The Hon. JOHN RYAN: By whom?

The Hon. AMANDA FAZIO: You have had your time for questions. You had an hour.

The Hon. JOHN RYAN: But you cannot make a statement like that without saying.

The Hon. AMANDA FAZIO: Point of order, Madam Chair: Ms Sylvia Hale has the call and I think the Hon. John Ryan is yet again coming in and just gratuitously attacking the witness.

Ms SYLVIA HALE: Well then—

The Hon. AMANDA FAZIO: We were getting along quite fine before he came back in the room. We saved time.

Ms SYLVIA HALE: Well, I will ask the question then—by whom?

The Hon. AMANDA FAZIO: That is right, just be a puppet for the Libs.

The Hon. JOHN RYAN: How can he not answer a question like that?

The Hon. AMANDA FAZIO: He can because, to the point of order, it might be part of the general manager's—

Ms SYLVIA HALE: Let us just let him answer.

Mr DOUGLAS: These are people who have told me, and I have an obligation of confidence.

Ms SYLVIA HALE: Yes.

Mr DOUGLAS: And I have to respect that.

Ms SYLVIA HALE: Yes.

Mr DOUGLAS: This is difficult because I cannot talk about matters that are coming into the public domain that are other people's business, frankly, but I am aware of it.

Ms SYLVIA HALE: Now, you said that when you were talking about the process by which the new LEP was referred to the State Government in April 2004, you certainly were highly disapproving of retrospectivity, and you believed Gabrielle Kibble was perfectly correct to separate out the Cross Roads LEP from the Orange Grove LEP. So that suggests to me that Ms Kibble was very well aware of what she was doing and thought that the way in which she was acting was certainly in the best interests of the council. But she also considered the two developments to be very different kettles of fish. Do you have misgivings about Ms Kibble's decision to adopt the draft LEP and forward it to the State Government for approval?

Mr DOUGLAS: Yes, I do, and I put that in writing—not so much about Ms Kibble's position but put it in writing to the general manager that I believed retrospectivity was not the way that the council should have been going on this matter.

Ms SYLVIA HALE: But given—and I believe—that part of the argument for her separating them out was that the Cross Roads was a greenfield site whereas Orange Grove was up and operating.

Mr DOUGLAS: Yes.

Ms SYLVIA HALE: And she believed it was in the interests of the social and economic welfare of the area that Orange Grove proceed. You said that you would disagree with that?

Mr DOUGLAS: Yes. I am taking a strictly planning view. I am not responsible for the—I mean, that is why I am splitting the issue of how the approval was derived from the problem that is in front of the people that got mashed in the middle of these matters.

Ms SYLVIA HALE: Have you ever been aware of LEPs retrospectively approving developments? Have you ever encountered them?

Mr DOUGLAS: No, I have never encountered them, but I am aware that there has been some around and I do not know the basis for them. But, I mean, each one has to be taken on their merits, I would imagine.

The Hon. DAVID OLDFIELD: Mr Douglas, just in regard to what Sylvia was talking about, taking these things further, and given the evidence that you have given us about how this, I will not use the word corruption, but this sort of nature of the influence all over the council particularly by Frank Mosca which sounds pretty much like Frank said jump and everybody said how high sort of stuff, the way you were suggesting it—why did you think that what you were passing on as having been said by Nabil Gazal would go anywhere?

Mr DOUGLAS: Well, this was the first encounter I had in Liverpool of this way in which I guess Liverpool operated because my role up to that time had been strictly Oasis and strictly looking at some of the CBD issues. I had not come into some of the full planning issues which I later came into with the CBD. So it really was the first exposure, and I felt that the organisation would be justifiably concerned and handle it in the normal way. Were I the GM, I most certainly would have, and I can say that Mr McCully, since he has been aware of this, has handled it with considerable care and alarm.

The Hon. DAVID OLDFIELD: How did Mr Mosca wield this power particularly? Are we talking about ongoing pay packets, occasional bribes, boats for members of Parliament's brother's bachelor parties?

What was the scenario where payments of some kind, or in kind, were concerned? How did Mr Mosca actually wield all this power?

Mr DOUGLAS: Well, he seemed to—firstly, there was a lot of phone calling, and what have you, that goes on.

The Hon. DAVID OLDFIELD: Yes.

Mr DOUGLAS: And he had then a very strong relationship with Councillor Beuk.

The Hon. DAVID OLDFIELD: But what I am getting at is why were people doing this? What was said that put Mr Mosca in a position where people would do what he wanted? There must have been—I mean, are we talking about just friendships here, or—

Mr DOUGLAS: I certainly never—if you are suggesting did I see boats or pay packets, no, I never saw anything that even remotely resembles that, but the relationship between Mr Beuk and Mr Mosca is very close. The council staff all know about that and there is no doubt that what happens—well, I can say this for an absolute certainty—is that the independent hearing committee would recommend something, and Councillor Beuk would move almost a nullity of that which favoured what Mr Mosca first put up. That has happened on a couple of occasions at least, to my knowledge. I did DCP 30—co-ordinated it—and at a different environment we can go over the detail of the way that was heavily managed through the back, and I am not saying for any known reward to me, but certainly manipulated.

The Hon. DAVID OLDFIELD: So you are not aware at all then of any reward, if we use your word, being brought about for anybody on the basis of doing what it is that Mr Mosca required?

Mr DOUGLAS: No.

The Hon. DAVID OLDFIELD: And you are not aware of any bribe or any coercion in a manner that would have led to a reward in relation to anything Mr Gazal may have asked for?

Mr DOUGLAS: No.

The Hon. DAVID OLDFIELD: Just once again back on the scenario that Sylvia was speaking of with regard to prohibited use and the concept of, well, if it is not essentially prohibited, it may be considered, is it really fair to consider that as a form of zoning change, or is it really just an expansion of the use, or is it just a change to the existing use or an inclusion of other uses that are not prohibited?

Mr DOUGLAS: The Liverpool pattern has been that they will do spot zonings to accommodate changes of uses. It has been a pattern of the three years I was there and presumably much longer. It is a normal way of doing it. That is how it should have happened and it might still have happened had it been undertaken that way, and in this case this inquiry and no other issue would have been meritorious.

The Hon. DAVID OLDFIELD: From what we have heard, the council was—the way that it has been expressed to the inquiry is that the council was unwilling to join Gazcorp in an action in the court because they felt that they could simply sort the matter out by rezoning.

Mr DOUGLAS: I mean, I suspect that the council of the time anticipated that that was the most economical and prudent way of going.

The Hon. DAVID OLDFIELD: Yes. Certainly the way it was conveyed to us was that there was no point spending money fighting them on that matter because it cannot be won.

Mr DOUGLAS: That is right.

The Hon. DAVID OLDFIELD: We will simply fix it after the fact by changing the zoning.

Mr DOUGLAS: Yes, and put it with the AMP one at the same time.

The Hon. DAVID OLDFIELD: So who was lobbying for the AMP then?

Mr DOUGLAS: The exact source of that, I do not know, but certainly AMP were obviously very keen and they got into the heads of the senior staff, if not councillors, and it just appeared.

The Hon. DAVID OLDFIELD: So did Mr Gazal, for example, appear to have any more influence than AMP?

Mr DOUGLAS: I would have thought only to the extent that it was a more pressing matter.

The Hon. DAVID OLDFIELD: Right. So, no more influence as far as being able to get things done and just the fact that it was more on the table at the time?

Mr DOUGLAS: Well, how do I say that without getting into an argument with Mr Ryan again, but if you can appreciate in Liverpool—and I do recommend you read the daily report—the way things happened in Liverpool, then I have to say that anything in which Mr Mosca was involved had a much higher profile and interest.

The Hon. DAVID OLDFIELD: I can certainly appreciate your saying that, but the difficulty that I am having with that is why. Was Frank Mosca's power based on just Labor Party mateship? Was this just sort of like these were the guys he had beers with after work and so anything Frank wanted, Frank got, and there was nothing in it for anybody, or was there some sort of ongoing relationship that secured futures for different people in different places?

Mr DOUGLAS: Possibly all of the above.

The Hon. DAVID OLDFIELD: Yes, but you are not aware of any of it?

Mr DOUGLAS: I am only aware of anecdotal comment.

The Hon. DAVID OLDFIELD: What were the anecdotal comments?

Mr DOUGLAS: If you want a transcript off the record, I will tell you.

The Hon. DAVID OLDFIELD: If you want it off the record?

Ms SYLVIA HALE: Is that like proceedings in camera?

Mr DOUGLAS: Totally in camera because I, you know - I mean, you have got to read the daily report. The daily report says—

The Hon. DAVID OLDFIELD: We are not really interested in the daily report.

Mr DOUGLAS: No, I know that.

The Hon. DAVID OLDFIELD: It is not a matter of what we are doing. Give us an idea of these anecdotes.

Mr DOUGLAS: Well, it just tells you—no, I am not going to, with respect—but the daily report tells you about the Liverpool council, or the functioning underneath, in gruesome detail—a thousand pages of it. And if you read it, and get Professor Daly if you wish, it is relevant to understanding how Liverpool functioned because if you do not understand that, with respect, you will never understand how Orange Grove can appear out of nowhere from some quite good people.

The Hon. DAVID OLDFIELD: Is this a sort of a Labor rats in the ranks type of scenario? Is that what you are getting at?

Mr DOUGLAS: For example, Mr Daly—and I was just reading some of the stuff earlier—said, "Private sector groups deliberately placed high pressures on the council, realising its frailty and the likelihood of its submitting to the pressure." Now, I would agree.

The Hon. JOHN RYAN: What's its frailty?

Mr DOUGLAS: Two frailties were exposed in the Daly report. One was the Labor caucus. The Labor caucus had four right-wing, three left. The strong man in there was Beuk. Therefore, four votes were handed up—

The Hon. JOHN RYAN: I didn't really find him very strong.

The Hon. DAVID OLDFIELD: I suppose it's all relative to the opposition.

Mr DOUGLAS: South-western Sydney is very interesting. You've got four votes and three votes and caucus votes as a block. You'll see what Daly said about that. He actually says they breached section 232 of the Local Government Act, where you have a responsibility firstly to your residents and ratepayers. What he said was that the way the caucus was running—and at this stage it was running caucus on DAs still before head office changed the rules—

The Hon. JOHN RYAN: Every council did that though.

Mr DOUGLAS: I appreciate that. I'm simply talking about Liverpool.

The Hon. JOHN RYAN: Every Labor council had a caucus on DAs.

The Hon. AMANDA FAZIO: Point of order: Madam Chair, can Mr Douglas be allowed to answer the question?

CHAIR: Yes, I agree.

Mr DOUGLAS: The point I'm making is that the Daly report is very clear about that—you played your cards very carefully in there and you got outcomes that supported you. What was your reward in heaven, I wouldn't know.

The Hon. DAVID OLDFIELD: Nobody from Labor is going to heaven so they won't find out either.

The Hon. AMANDA FAZIO: Well, you won't be there to notice anyone missing.

The Hon. DAVID OLDFIELD: I'm not planning on going anywhere.

The Hon. JOHN RYAN: Madam Chair, can I ask a couple of questions?

CHAIR: Order! Mr Ryan has a couple of questions to finish on.

The Hon. JOHN RYAN: The meeting you had with Mr Heapy, was that to discuss the matter you raised with the Committee with regard to your concerns about Mr Mosca?

Mr DOUGLAS: Yes.

The Hon. JOHN RYAN: You said that you forwarded some information to him afterwards in the form of your file note. How did you do that?

Mr DOUGLAS: Just in internal mail.

The Hon. JOHN RYAN: So it was a piece of paper in an internal envelope?

Mr DOUGLAS: Yes.

The Hon. JOHN RYAN: Addressed to him personally?

Mr DOUGLAS: Correct. That was the normal way of doing things.

The Hon. JOHN RYAN: What did Mr Heapy say to you when you raised this with him? Was he concerned? Did he hear it in silence?

Mr DOUGLAS: To be quite honest, I can't recall but I would imagine he was concerned. I really don't know.

The Hon. JOHN RYAN: What caused you to make—what was it that sparked you to make—a further disclosure to Mr McCully? When did you do that?

Mr DOUGLAS: January this year.

The Hon. JOHN RYAN: What caused that?

Mr DOUGLAS: As I've indicated to you, it was the decision of the Land and Environment Court coming down so strongly reminded me that I had file notes.

The Hon. JOHN RYAN: So you went and made an appointment to see Mr McCully?

Mr DOUGLAS: Correct. To be quite clear, I went to the internal auditor who took me straight through to Mr McCully.

The Hon. JOHN RYAN: You weren't working for the council at the time?

Mr DOUGLAS: Yes, I was.

The Hon. JOHN RYAN: I see.

Mr DOUGLAS: And that was the process at Liverpool.

The Hon. JOHN RYAN: Okay. Your protected disclosure, would it be fair to say that there are only two copies of it: yours and the one you have given to Mr McCully?

Mr DOUGLAS: Yes, I would imagine that's the case.

The Hon. JOHN RYAN: Did you distribute copies to anyone else?

Mr DOUGLAS: No—my disclosure, no.

The Hon. JOHN RYAN: So if it hasn't leaked from you—because clearly it has leaked—

Mr DOUGLAS: It has leaked from me.

The Hon. JOHN RYAN: Sorry, it has leaked from you?

Mr DOUGLAS: Yes. I know how it's happened. But, as I indicated earlier, I've got to deal with that.

The Hon. JOHN RYAN: How did it leak from you?

Mr DOUGLAS: I'm sorry, I can't comment on that.

The Hon. JOHN RYAN: Are you saying that someone you employ has leaked it?

Mr DOUGLAS: I'm not saying anything.

The Hon. JOHN RYAN: Well—

Mr DOUGLAS: No.

The Hon. JOHN RYAN: Did you actively—

The Hon. AMANDA FAZIO: Point of order: Madam Chair, the Hon. John Ryan is trying to put words in the witness's mouth.

The Hon. JOHN RYAN: I'm not trying to put words in his mouth; I'm trying to make sure that what he says isn't misdescribed somewhere else. Are you saying that you did it or are you saying that someone else to whom you might have given the document has leaked it?

Mr DOUGLAS: I can say I'm responsible for it but in a way that I did not expect it to happen. I certainly did not have any idea or interest or wish that it ended up with Mr Bob Carr.

The Hon. JOHN RYAN: Did you give it to someone?

Mr DOUGLAS: No.

The Hon. JOHN RYAN: So how did—

Mr DOUGLAS: There are only two copies that I am aware of; there may be more made in the ICAC process.

The Hon. JOHN RYAN: So have you shown it to someone else other than—

Mr DOUGLAS: Correct. Yes.

The Hon. JOHN RYAN: What was the purpose of showing it to them?

Mr DOUGLAS: I suppose bona fides of an issue.

Ms SYLVIA HALE: That person must have made a photocopy of it.

Mr DOUGLAS: No. They could not have made a photocopy of it.

The Hon. DAVID OLDFIELD: They disclosed the details of it.

Mr DOUGLAS: They have read it—that's why I said that what Mr Carr said in the House is not quite accurate. So whatever their memory of it, it is not completely accurate.

The Hon. JOHN RYAN: So you disclosed it to another person?

Mr DOUGLAS: Yes. That's why I'm saying I take responsibility for it but I've got to deal with that in due course.

The Hon. JOHN RYAN: Since you have left the council have you ever done any work for Westfield?

Mr DOUGLAS: No, never.

Ms SYLVIA HALE: Would it be normal practice for Mr Heapy, as the acting general manager, to retain a copy or to make a note that he'd received it? Would he add it to the council files in any way? Would he have passed it on to the general manager? What would he have physically done with it?

Mr DOUGLAS: I don't really know but I would imagine he would have passed it on to Mr Carr.

Ms SYLVIA HALE: So there should be a copy in the council records therefore.

Mr DOUGLAS: Yes. That's what would happen to it normally but I don't know what happened in this case.

Ms SYLVIA HALE: Thank you.

The Hon. JOHN RYAN: I'm not referring to recently but at the time you made your disclosure sometime ago was there any investigation of that matter by the ICAC at that time?

Mr DOUGLAS: My understanding is that they have been to council and taken certain files and had certain conversations with Mr McCully. Beyond that I don't know.

The Hon. JOHN RYAN: So it would indicate that at the time ICAC probably decided that it didn't meet their requirements for further investigation.

Mr DOUGLAS: As you would be aware, under protected disclosures—

The Hon. AMANDA FAZIO: Another attempt to discredit the witness.

The Hon. JOHN RYAN: It is not an attempt to discredit the witness.

Mr DOUGLAS: I'm sorry, they have to give an answer back within six months either way. They have not done that. My understanding—at least my advice—is that that is an indication it's still ongoing and the basis of how it's ongoing is a matter only for my speculation because I imagine they would be wanting to get some other evidence.

The Hon. AMANDA FAZIO: I have no further questions, Madam Chair.

The Hon. JOHN RYAN: I don't either.

CHAIR: Right. Mr Douglas, a couple of things before we conclude. First, earlier we talked about whether or not you could provide the file note to the Committee. My advice is that it would be better for you to get your advice on the appropriateness or otherwise of that, if you wouldn't mind, and let us know what that advice is.

The Hon. JOHN RYAN: Simply ask the ICAC.

CHAIR: And then the Committee will consider your response in relation to that matter. Secondly, there was the point that I want to make for the benefit of Mr Douglas and persons who might read the transcript of this hearing once it's published. Part of the protection of parliamentary privilege to these proceedings extends to what happens after evidence is given. Any adverse action taken by others as a result of what you say or you have said in this hearing may constitute a contempt of Parliament. The Legislative Council bases its practices on that of the Senate in most respects in regard to the protection of witnesses and the Senate resolutions of 25 February 1988 declare that any interference with a witness and the infliction of any penalty on a witness in consequence of their giving evidence may be treated as contempt. In 2001 the Legislative Council's privileges committee conducted an inquiry into the actions taken by a public sector body in relation to a number of officials after they had given evidence to a general purpose standing committee. So I just want that placed on the *Hansard* record. Thirdly, are you able to indicate to the Committee whether you wish any part of your evidence this afternoon to remain in camera?

Mr DOUGLAS: I can't quite recall everything that's been said; that's the difficulty. I suspect the only one would be an answer to Mr Oldfield's question, where I was trying to be as careful as I could.

The Hon. JOHN RYAN: I think he asked you a few questions.

The Hon. DAVID OLDFIELD: I think it was the bit at the end that led to the anecdotal material.

Mr DOUGLAS: Correct.

The Hon. AMANDA FAZIO: Perhaps, Madam Chair, when Mr Douglas receives his copy of *Hansard* to check he could then indicate to the Committee which, if any, he would like to have kept in camera and then the Committee can resolve to make the transcript public.

The Hon. JOHN RYAN: I don't think we can do that.

The Hon. AMANDA FAZIO: Why not? I think we should seek some advice from the Clerk about that rather than just having you give a yes or no.

The Hon. HENRY TSANG: Madam Chair, can I suggest that the evidence be not in camera subject to Mr Douglas reading the *Hansard*.

CHAIR: Not published, do you mean?

The Hon. HENRY TSANG: Not published until Mr Douglas has read the *Hansard* and agreed to have it published.

Ms SYLVIA HALE: My recollection of Mr Douglas's response to Mr Oldfield's question was very, very general.

The Hon. DAVID OLDFIELD: I would have thought that was one of the fewer—

Ms SYLVIA HALE: He didn't name anyone.

CHAIR: Yes, I think you veered away from that and we didn't press the point.

Mr DOUGLAS: I tried to.

CHAIR: We didn't ask you who you were talking about.

The Hon. DAVID OLDFIELD: And you only referred to the Daly report as being an example of how rotten Labor councils are and how they are completely filled with people who are doing nothing but being corrupt throughout the course—

The Hon. AMANDA FAZIO: Point of order: Madam Chair, I'm sick of these gratuitous insults from David Oldfield—not the Hon. David Oldfield.

The Hon. DAVID OLDFIELD: It's something that is obviously just bred into them at an early age, I think.

The Hon. AMANDA FAZIO: I ask you to call him to order.

CHAIR: Okay.

The Hon. DAVID OLDFIELD: It starts with being an eight-year-old handing out how-to-vote cards and it goes on from there.

CHAIR: Order!

The Hon. AMANDA FAZIO: We can talk about party hopping if you want.

CHAIR: We have to have a deliberative meeting after you have left us anyway so it might be best if we try to resolve the matter then.

Mr DOUGLAS: Are we still on the record?

CHAIR: Yes.

The Hon. AMANDA FAZIO: Yes. I have no further questions.

CHAIR: Thank you, Mr Douglas, for your time this afternoon. I apologise again for the late start to your particular segment and thank you for accommodating our extra time request. Thank you.

Mr DOUGLAS: Thank you. I appreciate that.

(Conclusion of evidence in camera)

(The witness withdrew)

(The Committee adjourned at 6.25 p.m.)

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