

REPORT OF PROCEEDINGS BEFORE

GENERAL PURPOSE STANDING COMMITTEE NO. 4

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

At Sydney on Wednesday 18 August 2004

The Committee met at 11.00 a.m.

PRESENT

The Hon. J. A. Gardner (Chair)

The Hon. J. C. Burnswoods

The Hon. K. F. Griffin

Ms S. P. Hale

The Hon. D. E. Oldfield

The Hon. P. T. Primrose

The Hon. J. F. Ryan

COLIN GELLATLY, Director General, New South Wales Premier's Department, Level 39, Governor Macquarie Tower, 1 Farrer Place, Sydney, and

ALEXANDER STEWART SMITH, Deputy Director General, New South Wales Premier's Department, Level 39, Governor Macquarie Tower, 1 Farrer Place, Sydney, affirmed and examined:

CHAIR: I declare open the fourth public hearing of the inquiry into the designer outlets centre. I welcome you, ladies and gentlemen, to the fourth 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. I would like to thank our witnesses for appearing today at very short notice to assist the inquiry. At each of the last three hearings I have made lengthy comments regarding aspects of evidence, including sub judice, adverse mention and the status of documents requested by the Committee. If I need to I will refer back to those comments in the course of the hearing but I do not intend to repeat them now.

Turning to the reissue of invitations, I wish to advise that the Committee has reissued its earlier invitations to the Premier, the Minister for Infrastructure and Planning, the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration), and the honourable member for Fairfield. The Committee would be happy to make itself available to hear from these Ministers and members at any stage prior to the Committee reporting. Our current reporting date is 1 September 2004.

As to media broadcasting, the Committee previously resolved to authorise the media to broadcast sound and video excerpts of its public proceedings. Copies of the broadcasting guidelines are available from the table by the door. In reporting Committee proceedings, 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. Witnesses, members and their staff are advised that any messages should be delivered through the attendant on duty or through the Clerks. Please turn off any mobile telephones and pagers during the hearing.

Welcome, Dr Gellatly and Mr Smith. Dr Gellatly, in what capacity are you appearing before the Committee?

Dr GELLATLY: I am appearing as Director General of the Premier's Department.

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

Dr GELLATLY: Yes.

CHAIR: Mr Smith, in what capacity are you appearing before the Committee?

Mr SMITH: I am currently Deputy Director General of the Premier's Department.

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

Mr SMITH: I am.

CHAIR: If either of 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 to the Committee and we will be happy to consider your request. Dr Gellatly, could you summarise the extent of your experience with the public service?

Dr GELLATLY: I joined the public service as a trainee in January 1968. I was a trainee and worked for the Department of Agriculture for 19 years. I then worked for the Premier's Department for a year and then for the Department of Industrial Relations and Further Education and Training for four years. I then worked for the Premier's Department for a year, for the Department of Land and Water Conservation for a year and now the Premier's Department for eight years. So I have more than 30 years experience.

CHAIR: So you have been with the Premier's Department for eight years.

Dr GELLATLY: In this recent stint. This is my third stint in the Premier's Department.

CHAIR: How long have you been the Director General?

Dr GELLATLY: I was the Director General for a year in 1994-95 and I have been the Director General again since October 1996.

CHAIR: Dr Gellatly, I am sure that your remuneration will more than adequately reflect that extensive experience. Can you tell the Committee what that remuneration is?

Dr GELLATLY: Yes, it is published. It is the top of level 8, which is about \$358,000—somewhere around there.

CHAIR: Can you describe for the Committee the depth of your professional relationship with the Premier, Mr Carr?

Dr GELLATLY: It is obviously a relationship that has been built up in the eight years that I have been Director General of the Premier's Department. It is a very professional relationship and I think it is based on respect on both sides and trust on both sides.

CHAIR: Can you inform the Committee of the extent of your working relationship with the Premier's Chief of Staff, Mr Wedderburn?

Dr GELLATLY: Yes. Again, it is a very professional working relationship. I think Graeme was there for a short time when I was there in 1996 and then he left. He then came back as Chief of Staff about four or five years ago. We obviously work very closely and very professionally.

CHAIR: So for about four or five years you have been the Director General at the same time as he has been the Premier's Chief of Staff.

Dr GELLATLY: Yes.

CHAIR: Would it be fair to say, Dr Gellatly, that you would discuss and be involved in a broad range of issues that confront the Premier and his Chief of Staff from time to time?

Dr GELLATLY: Yes.

CHAIR: Would it be fair to say that as a consequence you are relied upon for the provision of advice on all manner of issues and that Mr Wedderburn would be involved in many discussions on a whole range of issues?

Dr GELLATLY: Yes.

CHAIR: Dr Gellatly, have you had any discussions or exchanges of information with the Premier regarding the Orange Grove rezoning?

Dr GELLATLY: No.

CHAIR: Have you had any discussions or exchanges of information with the Premier's Chief of Staff regarding the Orange Grove rezoning?

Dr GELLATLY: The discussions that I have had with Mr Wedderburn basically started in July when it became an issue about the jobs and we had discussions about identifying a person to be a jobs co-ordinator. Subsequently one of my staff was seconded to the Department of Infrastructure, Planning and Natural Resources to undertake that role. But in terms of the actual planning decisions and so on, I have not had any discussions with Mr Wedderburn or the Premier about that.

CHAIR: So the only discussions that you had with Mr Wedderburn related to the attempt to get some fresh jobs for the people who would be thrown on the scrap heap when the Orange Grove development closed?

Dr GELLATLY: I had discussions with Mr Wedderburn about a jobs co-ordinator that the Government wanted to appoint.

CHAIR: Have you had any discussions or exchanges of information regarding the Orange Grove rezoning with the planning Minister?

Dr GELLATLY: No.

CHAIR: What about the planning Minister's chief of staff, that is, the chief of staff of Minister Knowles?

Dr GELLATLY: No.

CHAIR: Have you had any discussions or exchanges of information regarding the Orange Grove rezoning with the assistant Minister for planning?

Dr GELLATLY: No.

CHAIR: What about the assistant Minister for planning chief of staff, Mr Michael Meagher?

Dr GELLATLY: There might have been one brief discussion again about the jobs co-ordinator issue.

CHAIR: A brief discussion about that aspect of Orange Grove but no other aspect of Orange Grove?

Dr GELLATLY: That is right.

CHAIR: Is there anyone else in the Premier's office or the planning Minister's officer or the assistant planning Minister's office and their departments that you have had discussions with in relation to any aspect of the Orange Grove rezoning?

Dr GELLATLY: Jennifer Westacott, Director General of the Department of Infrastructure, Planning and Natural Resources, rang me a couple of weeks ago. She had been looking at some emails that had come to her attention and in those emails it indicated there was a meeting between the Premier and Mr Lowy and she asked me did I know anything about that. I think I checked with Graeme Wedderburn and I had heard the Premier publicly say that there had been no meeting with Mr Lowy on that matter and so I relayed that information to her. We had also had discussions about the jobs co-ordinator role as Mr Demody was working closely with her staff. I think that is about it.

CHAIR: Do you think that is about it?

Dr GELLATLY: Yes.

CHAIR: When did you first hear about the Orange Grove issue?

Dr GELLATLY: A couple of weeks ago when it basically became public and I spoke to Alex Smith about it. There had been some emails and some briefings had been done around 16 April and 20 April. I was not involved in those and that is really when I became aware that there had been information provided at that stage, but the focus at that time was on working on the jobs issue.

CHAIR: That was only a couple of weeks ago?

Dr GELLATLY: Yes.

CHAIR: What was the conversation with Mr Smith?

Dr GELLATLY: He just brought to my attention the emails that he had in his possession and indicated that they had been prepared in response to a request by Mr Wedderburn for some information about the matter.

CHAIR: Were you surprised at all to get a phone call from Jennifer Westacott asking you whether the Premier had met with Mr Frank Lowy regarding the Orange Grove scandal?

Dr GELLATLY: Not in the context of what was being discussed publicly, no.

CHAIR: Why would Ms Westacott ring you and not the Premier's chief of staff to discover whether such a meeting had been arranged or occurred? It seems rather odd.

Dr GELLATLY: No, I do not think it seems odd at all. Director General's normally discuss issues with each other and raise them, not necessarily directly to the political officers, ministerial officers.

CHAIR: What did you do as a consequence of the discussion? For example, did you ring Mr Carr or his chief of staff?

Dr GELLATLY: No. I said I asked Graeme Wedderburn, the chief of staff, as I have indicated previously.

CHAIR: Were you surprised that Mr Carr did not initially disclose that his chief of staff had met with representatives of Westfield?

Dr GELLATLY: It is not for me to comment on the activities of the Premier in that regard.

CHAIR: Did you have any contact with Mr Alex Smith about this matter other than what you have just told us?

Dr GELLATLY: We also had a discussion about the jobs co-ordinator role as well.

CHAIR: You did have some knowledge of this issue before July?

Dr GELLATLY: No, not really. The jobs co-ordinator issue came up in July, I think, when it became public about the issue.

CHAIR: Could you explain your role in the Orange Grove matter?

Mr SMITH: On 16 April the Director General was absent at the time with his partner from work and Mr Wedderburn saw me at some stage, I cannot recall exactly what time but it was fairly early, to ask me whether the Premier's Department had any knowledge about a bulky goods outlet at Liverpool. It was on the morning of 16 April.

The Hon. JOHN RYAN: As there were two bulky goods operations, did they determine whether it was the Cross Roads or Orange Grove Road?

Mr SMITH: No, the conversation that Mr Wedderburn had, there was simply no information he had at that stage. He simply said to me "Do you know anything about a bulky goods outlet issue at Liverpool? I said "No, not to my knowledge. There have been no briefings prepared by Premier's Department on this issue."

CHAIR: Could you give consideration to providing this committee with the precise dates of any discussions on these matters in relation to Orange Grove?

Dr GELLATLY: With which people?

CHAIR: With any person in the Government.

Dr GELLATLY: Okay.

Ms SYLVIA HALE: Dr Gellatly, you say that in response to Ms Westacott's phone call you spoke to Mr Wedderburn and asked him whether the Premier had had any meeting with Westfield, or representatives of Westfield?

Dr GELLATLY: No, with Mr Lowy about this matter.

Ms SYLVIA HALE: Did you ask him whether he had any meetings with representatives of Westfield at all?

Dr GELLATLY: No.

Ms SYLVIA HALE: The question was specifically in relation to Mr Lowy?

Dr GELLATLY: Yes, and that was the question I was asked.

Ms SYLVIA HALE: Did you ask Mr Wedderburn or did Mr Wedderburn volunteer the information that he had had any meetings?

Dr GELLATLY: No.

Ms SYLVIA HALE: You did not say anything?

Dr GELLATLY: No.

Ms SYLVIA HALE: You kept to this very narrow focussed question?

Dr GELLATLY: Yes, that was all I was asked.

Ms SYLVIA HALE: On an issue that was presumably a matter of considerable public comment?

Dr GELLATLY: I have answered the question.

The Hon. DAVID OLDFIELD: I know you have answered these questions in sequence from the Hon. Jennifer Gardiner, but to broaden them, have you had any discussions regarding the Orange Grove matter of any kind with anybody in the Premier's Department or the Ministry of planning—be it Minister Knowles' staff, be it Minister Beamer's staff, be it Minister Beamer, be it Minister Knowles, be it the Premier himself, be it any chief of staff or any member of staff—or anyone associated in any way with this matter in the Government or the department?

Dr GELLATLY: I think I have answered the specific questions.

The Hon. DAVID OLDFIELD: Yes, you have but you have not answered my question.

Dr GELLATLY: I have already mentioned the people to whom I have spoken about and what I have talked about.

The Hon. DAVID OLDFIELD: Have you spoken to anybody else that relates in any way in any association in the Government or the department, in any department or any Ministry or the Premier's department?

Dr GELLATLY: Not in a—no. I could have spoken to someone, when I was walking in the corridor or having a cup of coffee or something, about what was in the paper or something like that, but I have never been involved or had meetings with a department or a Minister's office or anything. There has been a lot of—as I said before, my main involvement has been since July in terms of what happens from here on in, in terms of worrying about the jobs and what happens if the closure happens and so on. In terms of the planning aspects, I can say that I have not had any of those discussions. Clearly, they were matters that were with the relevant Minister but in terms of the jobs issues and where we are now in terms of the jobs and what happens with the retail traders and the VSRD work and that sort of thing, there have been a number of discussions around the Government, but in relation to the planning issues, the answer is no.

The Hon. DAVID OLDFIELD: In answer to a question earlier you were essentially saying that you conveyed to Ms Westacott that the Premier had not met with Mr Lowy, but you said that you base that on what the Premier had been saying in the press.

Dr GELLATLY: I believe what the Premier says. I mean, I have worked with him for eight years.

The Hon. DAVID OLDFIELD: You would be in a small group in this State at the moment.

Dr GELLATLY: I have worked with him in a very professional relationship and I believe that what he said was the truth.

The Hon. DAVID OLDFIELD: The Premier has not said this to you, has he? You are only going on what he said in the press.

Dr GELLATLY: And on my own information from Mr Wedderburn, and also just a general—if there had been a meeting of that sort of type, we were always asked—usually asked for briefing notes and so on, so my conclusion was that there was no meeting.

The Hon. DAVID OLDFIELD: So, you have not spoken to the Premier personally; you are only going on what has been in the press as to what the Premier said and what Mr Wedderburn had said?

Dr GELLATLY: Yes.

The Hon. DAVID OLDFIELD: And if there had have been a meeting of that type there would have been briefing notes? So would it be unusual then for Mr Wedderburn to meet with, as the Premier has acknowledged now, Westfield—and we are yet to find out exactly who at Westfield—in the middle of April or thereabouts and you did not know anything about that meeting at all?

Dr GELLATLY: No, that is not unusual. We are separate offices and the ministerial office has one role and the public service, the Premier's department, has another role. And there are a number of meetings that are held where Mr Wedderburn would have meetings that I would not be involved in and would not know about and similarly from the number of meetings I have, he would not know about and would not be involved in.

The Hon. DAVID OLDFIELD: So Mr Wedderburn could have a meeting on behalf of the Premier and not require anything from you but the Premier cannot have a meeting and not require anything from you?

Dr GELLATLY: No, that is not what I said.

The Hon. DAVID OLDFIELD: You said that if the Premier had been having a meeting with Westfield it was something you would have known about because you would have been required to supply briefings, but it appears from what you are saying—

Dr GELLATLY: No, I did not say that that was the sole reason. I am just saying that in that type of meeting you would expect that there would be briefing notes to be provided. Mr Wedderburn is the chief of staff of the Premier's Office. He can have what meetings he sees fit to fulfil that role.

The Hon. DAVID OLDFIELD: He met with Westfield in April and did not mention it to you at all. The first you knew of these meetings was when you were rolled in to have a person seconded to assist with employment in July some time?

Dr GELLATLY: No, I did not find out about the meetings then. The first I became involved in the Orange Grove issue was in relation to jobs when we were talking about it.

The Hon. DAVID OLDFIELD: So you do not really know anything about the meetings at all, even now?

Dr GELLATLY: I saw that there was a press release yesterday.

The Hon. DAVID OLDFIELD: Otherwise you are not aware of any of the contents of the meetings between Wedderburn and Westfield?

Dr GELLATLY: That is right.

The Hon. DAVID OLDFIELD: Seeing that you are up on what the Premier says in the press, I understand that the Premier is saying in the press that he did not mention the meeting having occurred with Westfield previously because it did not influence the Government's decision in this matter. Are you familiar with that statement?

Dr GELLATLY: I read that in the newspaper today.

The Hon. DAVID OLDFIELD: Would you understand that it would be more believable that it did not influence the Government's decision if in fact the Government's decision had been contrary to Westfield's desires?

Dr GELLATLY: I would not comment on that. I cannot comment on that.

Ms SYLVIA HALE: You have said that there is a division of responsibility between the public service, namely the Premier's Department, and the Premier's staff, his office.

Dr GELLATLY: Yes.

Ms SYLVIA HALE: Do you find it odd then that Ms Westacott, when she was trying to establish whether any meetings had taken place, should ring only yourself and not ring anyone within the Premier's Office?

Dr GELLATLY: No. As I explained before, the usual point of contact between director-generals and between departments is if there is information required from the political aspects, it is between the Minister's office and the Premier's office and those parties. But it is for public servants to talk to each other and ask questions.

Ms SYLVIA HALE: Surely it would be reasonable, if Ms Westacott wanted to find out whether such a meeting had taken place or not, not merely to confine her inquiries to yourself—because you are saying you only knew what happened on the basis of the newspaper reports—but also to attempt to ring the Premier's staff, ring Mr Wedderburn?

Dr GELLATLY: No. I disagree.

Ms SYLVIA HALE: That would be unheard of, for someone to cross those boundaries?

Dr GELLATLY: As normal part of the public service practice departments do not ring other Ministers' offices.

Ms SYLVIA HALE: Not even when they are trying to determine whether a meeting, which is the focus of considerable public interest, not even when everybody is interested to know whether there has been a meeting or not and obviously I believe her inquiries were set in train because she anticipated the ICAC investigating this matter further. You find that not unusual at all, that she should have so restricted her inquiries that she only rang you and you, in answering that question, restricted your answer to solely whether there had been a meeting between the Premier and Mr Lowy?

Dr GELLATLY: I do not find it unusual.

Ms SYLVIA HALE: It is hardly a broad ranging inquiry, is it?

Dr GELLATLY: I just point out that this is just one of a number of things that are going on at any particular time. I was just dealing with it as efficiently as I was required as part of normal public service practice.

The Hon. DAVID OLDFIELD: Mr Smith, on the 16th you sent an email to Gary Prattley of the Department of Planning where you said, "Much appreciated. There was an issue I was asked to clarify and that was the situation re the potential for litigation (ie the State to be included) if the Minister approves the LEP. I would appreciate this point being covered." Do you remember that email?

Mr SMITH: Absolutely.

The Hon. DAVID OLDFIELD: And you received a response from Garry Prattley, "Alex, please see attached"—and it is interesting that they are all on first name bases too—"revised briefing note which has been approved by Gary Prattley. Kind regards, Karinne", who I guess works for Garry Pratley and emails from his address, according to this email. Who was it that you were seeking the briefing for?

Mr SMITH: For the Premier's chief of staff.

The Hon. DAVID OLDFIELD: This was in relation to his meeting with what was forthcoming with Westfield, was it?

Mr SMITH: What had happened is that in the morning Mr Wedderburn had asked me did I know anything about a bulky goods outlet at Liverpool and I said I did not. The usual course of events for that question to be asked is we have a series of regional co-ordinators across the State who are dealing with local issues so that if there were any issues that we were dealing with, I would know about them in my former role as chief of staff to the director-general of the Premier's Department. I did not know about them. So, at that stage after Mr Wedderburn asked me if I could get some background information for him, my understanding at the time was that there had been a request by Westfield for a meeting with the Premier's Office. At that time I contacted the Department of Infrastructure, Planning and Natural Resources.

The Hon. DAVID OLDFIELD: Did you receive any briefings prior to this?

Mr SMITH: No. I did not know anything about that. My first contact would have been with—I would assume and I am pretty sure that it was either Alice Spizzo or Vivian Hanich, who I asked did they know anything about this bulky goods issue.

The Hon. DAVID OLDFIELD: How would those contacts have been made?

Mr SMITH: Because they are my normal contacts. I have a range of contacts in each office.

The Hon. DAVID OLDFIELD: How would those contacts have been made?

Mr SMITH: By telephone.

The Hon. DAVID OLDFIELD: Do you guys use email much?

Mr SMITH: Quite often.

The Hon. DAVID OLDFIELD: Because we are having a bit of trouble finding emails amongst various people, from Ms Spizzo, for example. It would be good to see an email along the lines of what you have just said, and now, unfortunately, you are on the phone. We are having a bit of trouble getting emails from Ms Westacott. She does not seem to use emails; she just seems to tell people things.

Mr SMITH: I cannot comment on that.

The Hon. DAVID OLDFIELD: But you do send emails?

Mr SMITH: I do send emails.

The Hon. DAVID OLDFIELD: Are there any other emails from you in regards to this matter?

Mr SMITH: The ones I have are the ones—I received an email from Gary Prattley at approximately 11.22 on 16 April, which provided me with background briefing notes from DIPNR and those background briefing notes formed the basis of an overview report that I gave to the Premier's chief of staff.

The Hon. DAVID OLDFIELD: That is the only other one?

Mr SMITH: I received, I think I can tell you—I sent a response back to Gary Prattley at 11.58.09 and you read that out a moment ago.

The Hon. DAVID OLDFIELD: Correct.

Mr SMITH: And at that stage, again as I say we knew virtually nothing about this issue—in fact, we knew nothing about the issue. The Premier's chief of staff had said to me in terms of a Minister having to approve an LEP, what did that mean in terms of litigation for the department. Was there a way that the Crown could be enjoined in any litigation and that was the question I posed to Mr Prattley.

The Hon. DAVID OLDFIELD: What was the actual date of the meeting between Westfield and the Premier?

Mr SMITH: I have got no idea.

The Hon. PETER PRIMROSE: Can I ask both Mr Smith and Mr Gellatly, just about the traditional processes that are used by Premier's officers in relation to meetings, briefing notes, etc. Is there anything dramatically different with how the current Premier, Bob Carr's office operates as opposed to former Premiers?

Dr GELLATLY: No. It is standard practice, certainly while I have been involved with Premiers' officers and the Premier's Department.

The Hon. PETER PRIMROSE: Would you say the same?

Mr SMITH: Yes, there is no difference. I have certainly served Premier Fahey and Premier Greiner and there is no difference.

The Hon. PETER PRIMROSE: Were there times, for instance, when you did not attend meetings held with former Premiers Fahey and Greiner?

Dr GELLATLY: Yes.

Mr SMITH: Yes.

The Hon. PETER PRIMROSE: My only other question relates to briefing notes. Do you ever prepare briefing notes in anticipation of an event that are never actually called for?

Dr GELLATLY: Usually briefing notes are requested for a specific meeting but other times we do prepare briefing notes if they are issues that we think the Premier's Office or the Premier should be involved in—be aware of, sorry, on the basis of no surprises, so we might draw up a briefing note on that basis.

The Hon. JAN BURNSWOODS: My question relates back to your comment earlier about things you have discovered from the media. There have been reports of Mr Wedderburn's actions in advising Westfield to take any concerns they had to the ICAC. Would you have a comment on the appropriateness of that advice?

Dr GELLATLY: That has been standard practice for anyone in both governments I have worked for in terms of the Premier or the Premier's Office, that if someone is raising allegations about inappropriate behaviour, that there is a standing commission where those matters should be referred to and certainly the Premier has made it clear to us over the years that we are not to get involved in any of those sorts of issues and they are to be referred to the ICAC if someone is making claims.

The Hon. JAN BURNSWOODS: Would it be true to say that since the ICAC was established, that public servants, ministerial staff and others would have more understanding of probity and due process sorts of issues than previously would have been the case?

Dr GELLATLY: Yes. Certainly, I think there is a heightened awareness about it and The Premier's—I have been present at a number of delegations where the Premier has made it clear that that is the way the business of government should be done in New South Wales and he has made those comments to gatherings of chief executive officers and in delegations from other States or talking about the construction issues in the Olympics and the fact that we have got the standing commission I think has lifted the standard of probity in government practice in New South Wales.

The Hon. JAN BURNSWOODS: And that, in your experience, would be the case in regard to the officers of the Premier's Office?

Dr GELLATLY: Yes.

The Hon. JOHN RYAN: Mr Smith, can you explain to the Committee why Mr Wedderburn did not posed to The Minister's office to get a briefing from the department; why he would have come to you?

Mr SMITH: Well, I certainly cannot comment on why he would not have gone to the Minister's office but it would be usual practice if the Premier's chief of staff wanted a brief, to come to either the Premier's Department or the Cabinet Office for some background briefing on an issue.

The Hon. JOHN RYAN: Is it not usual for the Premier's personal staff, though, to deal with other ministerial officers for those sorts of things?

Mr SMITH: I cannot comment because I would not be privy to those discussions.

The Hon. JOHN RYAN: The emails in this matter are said to be between yourself and the officer providing information. Is it not normal for you to work through a Minister's office or through a director general's office rather than going straight to the officer?

Mr SMITH: I did not go straight to the officer. I made my phone call to someone and—I assumed it was either Alice Spizzo or Vivian Hanich because they were the two contacts—I raised the issue that I had been asked to seek comment on. I was referred, my recollection is, to Mr Gary Prattley. I had a phone conversation and I am assuming it was Mr Prattley who gave me a brief overview and then he alluded to two issues, two separate bulk goods issues. He gave me an overview of that and then subsequently indicated there were briefing notes in existence in DIPNR and he forwarded those briefing notes to me. The records that I have, they arrived at 11.22 a.m.

The Hon. JOHN RYAN: Do you recall that he also said in his email:

We are currently—

meaning DIPNR, I imagine

—preparing a consolidated and updated briefing note for the Premier which I will forward as soon as I can.

Mr SMITH: That is correct.

The Hon. JOHN RYAN: Did he forward that?

Mr SMITH: My assumption is yes. I have one dated 16 April.

The Hon. JOHN RYAN: The overview briefing that you referred to in your evidence earlier, do you have a copy of that overview briefing?

Mr SMITH: I do.

The Hon. JOHN RYAN: Are you able to table that for the Committee?

Mr SMITH: I am prepared to table that.

The Hon. JOHN RYAN: Are you aware of whether anybody from the department attended the meeting that Mr Wedderburn conducted with Westfield?

Mr SMITH: I cannot answer that because after the briefings were provided, I had no further contact on this matter with the Premier's Office or anyone else.

CHAIR: Mr Smith, are you happy to table that document now?

Mr SMITH: Yes, no problems at all.

CHAIR: One of the attendants will please collect that.

The Hon. JOHN RYAN: Dr Gellatly, there is one further matter. When Ms Westacott contacted you to get information about whether there had been a meeting involving the Premier and Mr Lowy, did she explain to you that she had had conversations with other officers to determine whether or not it had been Mr Lowy or Westfield?

Dr GELLATLY: No. She explained to me that emails had come to her attention which implied that there had been a meeting between the Premier and Mr Lowy and asked me that question—whether I knew that that had occurred or not.

The Hon. JOHN RYAN: Yesterday the committee got evidence from Mr Prattley and I think another officer who said that they were mistaken; they had made assumptions that the meeting involved the Premier but in the end they found that it involved Westfield generally. She did not inform you then as to whether she had that information at that time and then ask you, if not the Premier, could it have been Westfield or someone else?

Dr GELLATLY: No.

The Hon. JOHN RYAN: You were asked to get some information about some litigation that might have potentially involved Westfield. Did you ultimately get that information that you were asked to get?

Mr SMITH: I would have to answer, sir, I do not think so. I have no record of receiving any other information post my email to Gary Prattley on 16 April at about 11.58.

The Hon. JOHN RYAN: Could you give the Committee as much detail as possible as to what the nature of the litigation of the issues concerned was?

Mr SMITH: Look, the only issue was about—and I have to rely on my recollection here—Mr Wedderburn asked me were there any issues around—was there potential for the Crown to be involved in litigation about any issues concerning the LEP process. I have to say at that stage neither Mr Wedderburn nor I knew anything about this issue.

The Hon. JOHN RYAN: When Mr Prattley emailed you back and said that he was preparing something for the Premier, did you reply to his email that he was mistaken about the fact that it was a meeting involving the Premier?

Mr SMITH: No.

The Hon. JOHN RYAN: Why not?

Mr SMITH: Look, at the end of the day, it is an issue for the Premier's Office. That is all I was concerned about.

The Hon. JOHN RYAN: You acknowledge that you seem to be operating on the basis that it was a meeting involving the Premier and not the ministerial office.

Mr SMITH: I cannot respond to that. I do not know.

The Hon. JOHN RYAN: Dr Gellatly, if a person goes to someone in the Premier's Office, as in the chief of staff, it would be fair to say that they were seeking to bring something to the attention of the Premier. You would not normally go to the Premier's chief of staff for the purpose of dealing with them as an individual, would you?

Dr GELLATLY: I can think of situations where that would be the case—that people would want to talk to the Premier's Office separately from the Premier.

The Hon. JOHN RYAN: In what circumstances can you imagine that they would be different?

Dr GELLATLY: They might want to get some understanding of what the Premier's Office's view on a matter is, not specifically the Premier, and just the way they should handle a matter, how they should approach the Premier or something like that, or how they should approach an issue generally within government in terms of process and who they should be talking to and those sorts of issues. I can distinguish circumstances where that would be the case.

The Hon. JOHN RYAN: You would not normally have a meeting for that sort of information, though, would you? Someone like Westfield would not normally have a meeting with the Premier's Office just to find out how government works.

Dr GELLATLY: You asked me a general question about whether that could happen, and I answered that question.

The Hon. JOHN RYAN: The point I am making is that the Premier's Office and chief of staff are not an agent of government in that they have no influence within government agencies of their own, do they?

Dr GELLATLY: That is right.

The Hon. JOHN RYAN: They operate on behalf of the Premier, do they not?

Dr GELLATLY: Yes.

The Hon. JOHN RYAN: They are not in a position to make decisions or have influence on government policy, or even on their own to seek information from government agencies, just to satisfy their own curiosity, are they?

Dr GELLATLY: That is right.

The Hon. DAVID OLDFIELD: Dr Gellatly, did I understand that before you said that Ms Westacott had only sought information from you, or an answer from you, as to whether the Premier had met with Mr Lowy?

Dr GELLATLY: Yes.

The Hon. DAVID OLDFIELD: She did not seek information at all as to whether Westfield had met?

Dr GELLATLY: That is my recollection.

The Hon. DAVID OLDFIELD: So her only interest was in establishing whether it had been the Premier?

Dr GELLATLY: Yes, that is my recollection.

The Hon. DAVID OLDFIELD: Earlier you suggested that if the Premier was having a meeting with somebody like Mr Lowy, you would supply briefing notes.

Dr GELLATLY: Depending on the issue, but where there is an issue involving public service issues, we would be asked to provide briefing notes, or the Cabinet Office.

The Hon. JOHN RYAN: So are you aware or were you asked to provide briefing notes for either of the two meetings that the Premier had with Mr Lowy this year—the two that he has acknowledged, anyway?

Dr GELLATLY: No, not that I am aware of.

The Hon. DAVID OLDFIELD: Do you know at all what the substance of those meetings was?

Dr GELLATLY: I just read what was in the paper.

Ms SYLVIA HALE: Mr Smith, do you have any knowledge of those meetings?

Mr SMITH: None at all, other than what was in the paper.

Ms SYLVIA HALE: So you prepared no material?

Mr SMITH: No briefs were requested by the Premier's Department.

The Hon. DAVID OLDFIELD: Mr Smith, did the brief that was requested relate to its being other than that the potential litigation?

Mr SMITH: No. It simply described the issues involved. It was simply a summation of the information provided by DIPNR. I have to say for the record that I made a mistake in that. You will find that I said, "Clearly Westfield perceives the current site to be a threat", but in fact that should have been "the company concerned".

The Hon. DAVID OLDFIELD: You said that in an email, did you?

Mr SMITH: No. I said that in the brief that I have just tabled. For the record, I made a mistake there, but it is on the record. It is simply a summation of the two briefs that were provided by DIPNR earlier in the day.

The Hon. JOHN RYAN: You said that Westfield perceives the current site as a threat?

Mr SMITH: Yes. My statement said:

Clearly Westfield perceives the current site as a threat to the company's business at Liverpool. It is assumed Westfield feels aggrieved, given two decisions by the court overturning the original decision.

Clearly, I should have said that "the company concerned feels aggrieved".

The Hon. JOHN RYAN: Where did you get that information?

Mr SMITH: Look, it was an assumption—well, it was not an assumption, but in discussions with the people at DIPNR and in reading briefs, that was my summation of the material.

The Hon. JOHN RYAN: Mr Smith, the briefing that you have tabled for the Committee is not available to me just at the moment so I do not have it, but did you pass on to the Premier's Office a briefing note for the Premier that had been prepared by the department of planning? Did that document go to the Premier's Office too, in addition to your overall brief?

Mr SMITH: And the issues from DIPNR. They were provided in the morning and went to the Premier's Office.

The Hon. JOHN RYAN: So a document containing the statement:

The Minister would need to approve the plan by Wednesday 21 April if it is to be gazetted in time and to avoid closure of the centre and associated loss of jobs. The Minister has indicated that that is her preferred position, subject to reviewing the independent assessment.

That information was passed across to the Premier's Office?

Mr SMITH: What date was that?

The Hon. JOHN RYAN: That was the briefing note from Gary Prattley, the executive director of DIPNR, dated 16 April 2004.

Mr SMITH: My recollection is that it was provided later in the day.

The Hon. JOHN RYAN: By the time the meeting occurred, the Premier's Office was in possession of information which indicated the Minister's preferred position on the development and the fact that the plan needed to be approved by Wednesday 21 April in order to avoid closure of the centre and associated loss of jobs. That was known to the Premier. The Premier would then, at least if that brief had been read, have had information about what the Minister's preferred position was.

Mr SMITH: I cannot say that. All I can say is that that brief—clearly that was provided to me, a revised briefing note at 1.54 on 16 April, and that would be in DIPNR's official records to me.

The Hon. JOHN RYAN: Did you include that information in your overall briefing?

Mr SMITH: No, that was not my overall briefing because my brief—and I checked the record this morning—would have been provided to the Premier's Office at approximately one o'clock.

The Hon. JOHN RYAN: Did anybody from the Premier's Department attend this meeting?

Mr SMITH: No—well, not to my knowledge. And as I said in my introductory remarks, the director general at the time was absent due to a family matter from 16 April and I believe 22-23 April.

The Hon. JOHN RYAN: Do you remember Mr Wedderburn asked you about legal advice? Did you ever respond to Mr Wedderburn, giving him that information about legal advice?

Mr SMITH: Not to my recollection.

(The witnesses withdrew)

GRAEME WEDDERBURN, Chief of Staff, Premier's Department, Governor Macquarie Tower, Level 40, 1 Farrer Place, Sydney, affirmed and examined:

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

Mr WEDDERBURN: I attend today at the invitation of the Committee, making the point clearly that my Minister, the Premier, has waived the convention, I understand, that personal staff would generally not attend committees convened by the Parliament, but I do so willingly and openly.

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

Mr WEDDERBURN: I am. I have seen the terms of reference.

CHAIR: I point out to you, Mr Wedderburn, that 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, if you indicate that fact the Committee will consider your request.

Mr WEDDERBURN: All right. Thank you.

CHAIR: You mentioned you have an opening statement. If so, you may proceed to give that.

Mr WEDDERBURN: Certainly. For the benefit of the Committee, I will keep it to these brief pages. I am the Chief of Staff to the Premier of New South Wales, Mr Bob Carr. I have held this position since returning to be Premier's Office in May 2000. I attend this hearing at the invitation of the Committee. On 15 April 2004 a senior employee of Westfield, Mr Mark Ryan, telephoned me to raise a matter he said was urgent and of great concern to Westfield. He briefly outlined that company's probity, planning and legal concerns surrounding Liverpool City Council's approval of the Orange Grove development. His greatest concern was dishonesty associated with the project. Mr Ryan was seeking an urgent meeting to further discuss these matters.

On 16 April I telephoned Mr Alex Smith, then chief of staff to the director general of the Premier's Department. I asked that he request a background brief from the department of planning and infrastructure. Mr Smith provided the brief I had sought. I telephoned Mr Ryan and agreed that he and I could meet. The meeting was arranged for 19 April 2004. On Monday 19 April 2004 Mr Ryan and a Mr Craig Marshall from Westfield met with me in my office.

Mr Ryan and Mr Marshall explained in some detail the history of the development from the approval in November 2002 to the draft amendment to the Liverpool City Council's LEP put forward by the council in administration on April 13 2004. They spoke of the court judgments and the State's planning policies that the council's unlawful approval of the centre had offended. Mr Ryan said the council in administration had afforded the proposed LEP amendment to the Department of Infrastructure Planning and Natural Resources. He said it would then go to Minister Beamer for her decision. Mr Ryan said Westfield had serious doubts about the competence of the council before it was sacked. He suggested possible corruption of the council's decision making on this development. He said Westfield was concerned that dishonest influences behind the original approval of Orange Grove were also behind the draft LEP.

He said Westfield held strong concerns that these dishonest influences were already encircling Minister Beamer. Mr Ryan said that people and some associations behind this project were dubious, and that there was a perception, if not the presence, of corruption. He said they might already be the subjects of corruption investigations. Mr Ryan said the council's role and the developer's relationship with the council was smelly. He named Mr Gazal, Mr Mosca and Mr Bargshoon as the dishonest influences behind this project. He said they were already mobilising to exert influence on Minister Beamer. He said they would abuse processes and manipulate local political associations for their own financial benefit. I took this to be an anticorruption warning. My anticorruption alarm bell started to ring. As Chief of Staff to the Premier one of the responsibilities I have is to guard against any possible corruption of government processes.

I told Mr Ryan that any evidence of corruption ought to be referred to the Independent Commission against Corruption. I told him that Minister Beamer would stick to the rules and that she would not be influenced improperly. Later, on April 19, I spoke to the Premier. After telling him of Westfield's probity

concerns the Premier told me in words to the effect, "I don't want the Government tarnished by the shenanigans at Liverpool council. I won't tolerate corruption or the perception of it. The Minister ought to be appropriately advised to stick to the rules." On April 20 2004 I met with Minister Beamer to issue an anticorruption warning. Minister Beamer told me that her decision would be based on sound planning principles. She told me she and her staff would take care to avoid being lobbied.

The Hon. JOHN RYAN: Would it be fair to say that you are the Premier's most senior adviser?

Mr WEDDERBURN: Yes.

The Hon. JOHN RYAN: Who did Westfield representatives wish to meet with, you or the Premier?

Mr WEDDERBURN: Mr Ryan telephoned me, initially suggesting that the matter was so urgent that he believed Mr Lowy of Westfield might see fit, might request, I beg your pardon, a meeting with the Premier.

The Hon. DAVID OLDFIELD: "Might see fit" is probably more appropriate.

Mr WEDDERBURN: I beg your pardon?

The Hon. DAVID OLDFIELD: I said "might see fit" is probably more appropriate.

Mr WEDDERBURN: Is that a question or are you just making an aside remark for the sake of it?

The Hon. DAVID OLDFIELD: Whatever you want it to be.

CHAIR: Order!

Mr WEDDERBURN: I make a request of the Chair. I have had the opportunity to witness the barrage of speeches. If you would like to be sworn in and give evidence, I've got some questions I wouldn't mind putting to you about your processes.

CHAIR: Order!

The Hon. DAVID OLDFIELD: Perhaps you should get into Parliament so you can ask some questions. Are you lined up for that job somewhere down the line?

CHAIR: Mr Oldfield, just let the witness answer.

Mr WEDDERBURN: How dare you! You are one of the most offensive people in the Parliament.

The Hon. DAVID OLDFIELD: You haven't seen anything yet, buddy.

CHAIR: Order!

The Hon. PETER PRIMROSE: Mate, he is pretty offensive. He is pretty offensive. Very personal.

CHAIR: Order! If we could just let the witness answer the question.

The Hon. PETER PRIMROSE: There should be questions about your offensiveness.

Mr WEDDERBURN: Excuse me, Mr Oldfield, I am more than happy to answer your questions.

The Hon. PETER PRIMROSE: They are not interested in asking questions.

Mr WEDDERBURN: But I will not sit here and tolerate your immature asides at me or any other credible witness.

CHAIR: Mr Wedderburn!

The Hon. PETER PRIMROSE: They are interested in making allegations. They are not interested in the answers of witnesses.

CHAIR: Mr Ryan has the call. Would you ask the question so Mr Wedderburn can answer it?

The Hon. JAN BURNSWOODS: Madam Chair, can I suggest that you ask Mr Oldfield to conduct himself properly?

The Hon. DAVID OLDFIELD: Is that after your example, Jan?

CHAIR: I would ask all members of the Committee to conduct themselves properly.

The Hon. JAN BURNSWOODS: Thank you, Madam Chair.

The Hon. JOHN RYAN: Who did Westfield wish to meet with, you or the Premier?

Mr WEDDERBURN: Mark Ryan said in his conversation with me on the telephone on April 15 that he believed the matter was so serious that it might involve a meeting of the head of Westfield with the Premier. I took that on notice, but I did not agree to have that meeting occur. I did not plan for it to occur.

The Hon. JOHN RYAN: Sorry, you did not plan—?

Mr WEDDERBURN: I did not take efforts to put it in the diary. I had heard things from Mr Ryan. I took those on notice.

The Hon. JOHN RYAN: Did you bring that information to the attention of the Premier before you had a meeting with Westfield?

Mr WEDDERBURN: The Premier was aware that I would meet Westfield.

The Hon. JOHN RYAN: Prior to the meeting taking place?

Mr WEDDERBURN: Yes, he was.

The Hon. JOHN RYAN: And why?

Mr WEDDERBURN: Yes, he was.

The Hon. JOHN RYAN: Did Mr Ryan give you any information about the issue that he wished to raise with you during the telephone conversation?

Mr WEDDERBURN: Yes, he did.

The Hon. JOHN RYAN: What did he tell you at that time?

Mr WEDDERBURN: He introduced the subject of Orange Grove, something I had not had any knowledge of that I recalled before that phone conversation. He said that the original approval Westfield believed was unlawful. It should not have been given. He said that council planning staff should have known at the outset that the approval given was in breach of the local government LEP. He said that the matter had gone to the court not once, but twice. It had gone to the Land and Environment Court in December last year, I believe 18, but the action had earlier been commenced, I think, in June. He said the decision on that was 16 January. He said that decision of Lloyd's was challenged by the operators of the Orange Grove; that three judges of the Court of Appeal at the end of March had upheld the original decision. He spoke, of course, briefly in the phone conversation, but he got out as much as he thought he needed to—certainly, suspicion about the LEP, the court decisions. He then also said he believed that this development would have, if the approval had been given, offended the State Governments planning policies.

The Hon. JOHN RYAN: Did he raise with you his concern about potential issues of corrupt conduct?

Mr WEDDERBURN: I am sorry. I beg your pardon? Could you put that again?

The Hon. JOHN RYAN: Most of that sounds pretty pedestrian so far. Did he raise with you that he was concerned? He wanted to raise with you and the reason he wanted to meet with you was he said something to the effect that there was corrupt conduct he wanted to talk to you about?

Mr WEDDERBURN: Yes, certainly. I think, as I mentioned in the statement I just read, that the greatest concern was dishonesty associated with the project.

The Hon. JOHN RYAN: Did you take that information to the Premier when you informed the Premier you were going to have a meeting with him? Did you say to the Premier words to the effect that, "Mark Ryan from Westfield wants to meet with me to inform me about Westfield's concern about potentially corrupt conduct involving Orange Grove Road"?

Mr WEDDERBURN: The conversation I had with Mr Ryan was on April 15. I spoke with the Premier for the first time about this matter the following day, on 16, and I did say to him that Mark Ryan from Westfield has telephoned me, that he has raised concerns about the probity as well as the planning issues associated with Orange Grove. Mr Ryan had suggested the possibility of a meeting between Mr Lowy and the Premier. As I said, I took that on notice. I took no commitment that it would occur. Because he raised issues of probity I thought that that might be something that I could, or should, hear first. Has that answered your question?

The Hon. JOHN RYAN: Yes, that is right. Did you then take the meeting because the Premier then suggested that you should hear him? You said you had given no indication that you would hold a meeting. I take it the Premier then must have given you advice as to whether to hold the meeting or not, is that right?

Mr WEDDERBURN: I think he suggested to me that before taking the matter further I seek advice from the Premier's Department, which I did. I telephoned Alex Smith. Mr Smith said he would seek information on that. I then recall that either he called me or I called him to determine whether he had the advice. We had another conversation. As it occurred, maybe some of the thoughts occurred to me during the course of the day about whether or not there were any legal issues outstanding. I did not know, for instance, whether there was any other opportunity for the matter to be before the court, for instance, at that time, or any other legal issues pertaining to either the State or the council.

The Hon. JOHN RYAN: When you explained this to the Premier did you need to tell the Premier much for him to understand that this matter involved the Orange Grove Road site and what the issues concerning that were? Or is that a project that was known to him?

Mr WEDDERBURN: No, I think that when I spoke to the Premier about it on 16 April that he knew as little as I did when Mark Ryan called me on Thursday 15.

The Hon. JOHN RYAN: This is, I guess, at the very least, this is Westfield at least bringing this project to the attention of the Premier. One of the impacts of this meeting was that the project came to the Premier's attention as a result of this contact from Westfield?

Mr WEDDERBURN: Yes. My conversation with the Premier about contact with Westfield?

The Hon. JOHN RYAN: That is all right.

Mr WEDDERBURN: Yes.

The Hon. JOHN RYAN: You received briefing advice, including briefing notes from Gary Prattley from DIPNR and an overall briefing advice from Alex Smith?

Mr WEDDERBURN: Yes, I have a copy of that brief which came from Alex Smith signed by him on 16 April, received by me that day but I signed it on 19, which was the following Monday.

The Hon. JOHN RYAN: That is all right.

Mr WEDDERBURN: It is a two-page brief, I think, which was drafted by him and then it has attachments, which were provided to guide his written advice from a David Birds, dated February 16. I beg your pardon, it may also have been signed by a Stephen Driscoll, but there is a contact officer David Birds and a further document attached to it, which, once again, signed by Driscoll, Gary Prattley, but a contact officer David Birds. Then a further single page, which has as the heading for it "Advice to Michael Meagher of Minister Beamer's office" and it is dated issued "February 25" is at the top of it. Does that comply with the information you have?

The Hon. JOHN RYAN: That seems to be the case.

CHAIR: Yes, that is the documentation which the Premier, yesterday, said had been given to the Committee, but which did not arrive in this Committee's hands until today.

Mr WEDDERBURN: I would be more than happy to provide it. It is the only copy of it I have with me, so if the Committee would indulge me—would you like it now for can I hold on to it?

CHAIR: No, a previous witness has provided it. We have a copy, I think.

The Hon. JOHN RYAN: Just for a moment, can I just look at it to make sure it is the same material I have?

Mr WEDDERBURN: Yes. The handwriting on it is mine. This is a photocopy of the original brief.

The Hon. JOHN RYAN: While we are doing this, can I make a request of you, Madam Chair? We are, obviously, going through some pretty serious information. This is going to be a fairly serious part of our inquiry. I have a series of questions I want to put and reasonably I think Mr Wedderburn would understand I am basically going through detail. With regard to our normal practice of allocating time to members, I am prepared to give Government members as much time as they want. I would be grateful if we could dispense with our usual 20, 20, 20 business, allow us to complete this and then they can ask questions after that. I just do not think we can short-circuit and cut the process. I think we do have to do this in a reasonable and thorough manner. I would be grateful if I could have that indulgence from you, Madam Chair.

CHAIR: Are the Government members happy for Mr Ryan to continue this line of questioning for the time being?

The Hon. JAN BURNSWOODS: Can I ask what Mr Ryan has in mind for the crossbench members?

The Hon. JOHN RYAN: However much time they need.

CHAIR: Whatever I am going to ask you, obviously the crossbench will be asked the same question.

The Hon. PETER PRIMROSE: May I ask at what time Mr Ryan expects this session to finish?

The Hon. JOHN RYAN: I do not know. It is not going to go for hours. I do not want to be broken up.

Mr WEDDERBURN: Madam Chair, I am at the disposal of the Committee. If they would like to talk to me all day I would be more than happy to do it.

The Hon. PETER PRIMROSE: If Mr Ryan has three hours of questions—

The Hon. JOHN RYAN: No, I do not have three hours of questions.

The Hon. KAYEE GRIFFIN: Madam Chair, there is another witness before lunch.

The Hon. JOHN RYAN: I do not think I am going to be any longer than about 20 minutes, but I do want to—

The Hon. PETER PRIMROSE: Well, go for it. Ask whatever you want.

The Hon. JAN BURNSWOODS: I would like to know a little bit more precisely if you could just spell out for us what you intend, Madam Chair.

The Hon. JOHN RYAN: About 20 minutes.

CHAIR: Twenty minutes.

The Hon. JAN BURNSWOODS: And that will then be followed by the crossbenchers?

CHAIR: If they so wish.

The Hon. JAN BURNSWOODS: And that will then be followed by the Government?

CHAIR: Yes, if you have any questions.

The Hon. JAN BURNSWOODS: With the same time allocation?

CHAIR: Yes.

The Hon. JAN BURNSWOODS: And so the next witness who is due at 12.30 p.m. may not start until 1.00 p.m. or 1.30 p.m.?

CHAIR: Correct.

The Hon. JAN BURNSWOODS: That is your intention?

CHAIR: That is right, yes.

The Hon. JOHN RYAN: I think Mr Wedderburn is being very co-operative and I think it is useful to go through all of this material and it will probably save members asking questions otherwise.

CHAIR: We do appreciate it.

The Hon. JOHN RYAN: Have you got the briefing back?

Mr WEDDERBURN: Yes, I have indeed.

The Hon. JOHN RYAN: You said that you had not yet decided to have a meeting. What caused you to then decide to have the meeting and how did you indicate that to Mr Ryan?

Mr WEDDERBURN: I indicated before, as often happens with a conversation like the one Mr Ryan sought to have with me, overnight I absorbed what he had said. The dates that he had mentioned about the LEP only having been made a couple of days before seemed to be the reason for his urgency and I think he believed it was speeding into the Minister and he was suspicious that everything would be done overnight. The brief the next day did indeed confirm that the court had ordered that the facility close on April 28, so it did touch on the issues of urgency.

Having read the brief the next day to acquaint myself with it for the first time I concluded that if he wanted to raise not only the planning issues, which were, of course, not a matter for me but for the department and the Minister to consider, that if he had this additional concern that it would be best that I hear it, given that they were allegations that he wanted to put, and I agreed to see him. I did not then know that a Mr Marshall would attend as well, although I think he did indicate to me that he may bring someone else who knew all about the project. So any suggestion that Mr Lowy would meet the Premier that day was discarded by me. I said to him that I thought that he ought to see me instead.

The Hon. JOHN RYAN: So the original request was for Mr Lowy to meet the Premier?

Mr WEDDERBURN: Yes. I believe I made that clear earlier that in Mr Ryan's telephone call with me on Thursday he had suggested to me very concerned, so concerned that it might require the head of Westfield

meeting with the Premier. Only Mr Ryan will know if that is a fact at all that was motivating Mr Lowy, but he certainly put that to me. I took that on notice later in the day, 15 April, sought the brief, considered it, telephoned Mr Ryan and agreed that he and I should meet the next week on the Monday.

The Hon. JOHN RYAN: When you held the meeting with Mr Ryan you were aware of the fact that there was a court decision imminent and—

Mr WEDDERBURN: I beg your pardon, a court decision imminent?

The Hon. JOHN RYAN: One of the issues mentioned in the briefing note is it says that "the Minister would need to approve the plan by Wednesday 21 April if it is to be gazetted in time to avoid closure of the centre and the associated loss of jobs". You would have been told that by Mr Prattley—

Mr WEDDERBURN: I beg your pardon, you said "told that by Mr Prattley". I have not spoken to Mr Prattley.

The Hon. JOHN RYAN: I agree I have been inaccurate. What I mean is that Mr Prattley's briefing refers to the fact that on 21 April, less than a week's time—

Mr WEDDERBURN: I beg your pardon, if we are reading from the same document—as I said, I read this on the 16 and 19 April.

The Hon. JOHN RYAN: I am sorry. On the briefing that has got "Gary Prattley, Executive Director"—

Mr WEDDERBURN: That has his signature on the bottom of it?

The Hon. JOHN RYAN: I do not actually have a version with his signature on it, you probably do.

Mr WEDDERBURN: I beg your pardon, was it the document you just copied and received, the one I had?

[Document tabled]

May I have it back, it might aid the conversation?

The Hon. JOHN RYAN: I notice there is some handwriting on this.

Mr WEDDERBURN: As I said previously, that is in fact my handwriting.

The Hon. JOHN RYAN: But is this handwriting that you have done in preparation for today?

Mr WEDDERBURN: No. As I said, I am happy to provide the original, which is in my office. That is a copy of the original which I have brought here today. I am happy to provide the original but I would have written that, I think, I either on 16 or 19 April. I think I signed it on the 19th but I was aware of the content. I probably did not read all of it, I may have read as much as I could of it on the day to get the gist but, as I said, the planning and other issues put to me—I am not a planner—Mr Ryan had really emphatically put to me his concerns about the probity in that phone call and that was the driving reason for a meeting with me.

Ms SYLVIA HALE: Mr Wedderburn, just to clarify that we are all talking about the same document, I have one here that is signed by—or not signed by him but at the bottom it appears "Alex Smith, Executive Director, Chief of Staff", and on the first page it is headed "Bulky Goods Retail Outlets Liverpool. Issue: Draft LEP Proposal". It is in fairly large type. Is that the document part of the briefing?

Mr WEDDERBURN: I can assure the only comment on documents prior to today that I had knowledge of—

Ms SYLVIA HALE: But this, I think, was part of the briefing note that was provided to you by Mr Smith.

Mr WEDDERBURN: As I had suggested to Mr Ryan, I had come with a document that I had knowledge of and I provided a copy a few moments ago for the benefit of the Committee. They now have it and I assumed he was reading from the same document I was referring to. I am sorry, Mr Ryan, I am happy to look at your document, if you could draw me to the document because I understand there are 13 volumes in arch lever files at the Department of Natural Resources.

The Hon. JOHN RYAN: You do not appear to have a briefing which I think we had been informed had been passed on to you.

Mr WEDDERBURN: As I said, to aid the Committee's deliberations I have provided a copy of the brief that Mr Alex Smith provided to me on 16 April and if it is in here I am happy for you to draw my attention to it so we can discuss it. But I have no knowledge of the document you are referring to, unless it is a copy of the papers I have here.

The Hon. JOHN RYAN: We will have to come back in some way or other to that.

Mr WEDDERBURN: Is this a document that the Committee has?

CHAIR: Would you like to table that, Mr Wedderburn?

The Hon. JAN BURNSWOODS: He was just given it by a committee officer.

Mr WEDDERBURN: This is not my document, it has just been put on my desk.

CHAIR: This is a copy of the document that was tabled earlier.

Mr WEDDERBURN: By whom?

CHAIR: If you could table your document and if the clerks could make sure that everyone on the Committee has got that.

The Hon. JAN BURNSWOODS: We were given a copy some half-hour ago of a document tabled by Mr Smith.

Mr WEDDERBURN: I believe my document has been tabled. I handed it to the Committee 15 minutes ago for it to be photocopied and returned to me.

CHAIR: It has not been circulated.

The Hon. JOHN RYAN: I just draw your attention to the fact that the document tabled by Mr Smith, which he says was forwarded to you, does include a briefing from Mr Gary Prattley that says, "The Minister would need to approve the plan"—

The Hon. JAN BURNSWOODS: Could you give us a page or something so that any of us can follow what you are talking about?

Mr WEDDERBURN: I am with you, Mr Ryan, I can see where it is.

The Hon. JOHN RYAN: We have been informed that that document was handed to your office. Have you ever seen that document before?

Mr WEDDERBURN: If I could have my document back I could confirm that it is the one I have. As I said to you, I received a briefing from Alex Smith and it is signed and the Committee now has it. If this is the same page, you are asking me if I was aware of the facts of these rather than this specific document. I cannot tell you categorically until I see that this is in fact—

The Hon. JOHN RYAN: I understand that. I was not actually asking whether you had got that information in writing—

Mr WEDDERBURN: The Minister would need to approve the plan by Wednesday 21.

The Hon. JOHN RYAN: Were you aware of those facts when you held the meeting?

Mr WEDDERBURN: When I held the meeting on Monday I believe that that has actually been rejected as a view by the Minister's office, Minister Beamer's office. The papers had been sent from council, I think on April 13, to the department and my recollection is that perhaps Mr Meagher at the Minister's office might have said to me when I spoke with him on Friday, April 16 that it might be very difficult for the department to complete a section 69 report and other materials in the full file and send it to the Minister within that short timeframe. But I was aware of the fact that it was imminent, perhaps not so much because of that date referred to in the DIPNR document but because I believe I had been told by Mark Ryan that the centre was ordered to close on a particular date, being the end of April.

The Hon. JOHN RYAN: The closure of the centre was at least imminent. That is all right.

Ms SYLVIA HALE: Could I just clarify the chronology because I am a bit lost? You had the initial conversation with Mr Ryan on Friday 16 April?

Mr WEDDERBURN: No. As I have read and referred to it, it was on April 15.

Ms SYLVIA HALE: That was Thursday the 15th—

Mr WEDDERBURN: 15/4/2004.

Ms SYLVIA HALE: That was the initial conversation, and you slept on the matter overnight and considered it?

Mr WEDDERBURN: He telephoned me late that day.

The Hon. PETER PRIMROSE: I would imagine you would have had one or two other things happening as well as this.

Mr WEDDERBURN: You can be assured that this is not the only matter I deal with.

Ms SYLVIA HALE: I am sure that is the case. So that was on the 15th. What happened on the Friday the 16th?

Mr WEDDERBURN: I telephoned Alex Smith, then being chief of staff. I beg your pardon, the statement I made, I am happy to provide a copy of it to the Committee. It may not be verbatim.

The Hon. JOHN RYAN: I mean no disrespect to the member but that has already been made clear.

Mr WEDDERBURN: Certainly, but there are a lot of dates and I appreciate your confusion over the matter. I will certainly do that and there is no need to return it, I have a second copy.

[Document tabled]

The Hon. JAN BURNSWOODS: Could I also make a point because I think Mr Ryan, wittingly or unwittingly has sowed a great deal of confusion here. When we started on this line of questioning about this document, and we seem now to have established what it was, the words you actually used were "a court decision" due on that date. Now of course you have since read the sentence and there was nothing about a court decision, it was about a possible date of closure. But I think because you started off talking about a court decision there has been a great deal of confusion about the relevant documents and about, quite frankly, what in the world we are talking about.

The Hon. JOHN RYAN: You decided then to meet with Mr Ryan from Westfield?

Mr WEDDERBURN: Yes.

The Hon. JOHN RYAN: And then the meeting took place. That happened, obviously, very quickly. You organised for the meeting to take place on Monday?

Mr WEDDERBURN: Yes, I did.

The Hon. JOHN RYAN: What time of the day did it happen?

Mr WEDDERBURN: I believe it was 12:30 p.m., but my diary will confirm that.

The Hon. JOHN RYAN: And Mr Ryan, you said, brought someone with him?

Mr WEDDERBURN: Yes, a gentleman whose name I recall is Craig Marshall.

The Hon. JOHN RYAN: The matters discussed, according to your statement, raised some matters involving corrupt conduct?

Mr WEDDERBURN: Yes.

The Hon. JOHN RYAN: Did Mr Ryan leave any information with you in writing about his concerns?

Mr WEDDERBURN: No, he had no document relating to that that he left with me. The papers Mr Ryan left with me were in fact some legal advice to Westfield about a couple of matters. They had purchased a legal opinion about a couple of things.

The Hon. JOHN RYAN: He did leave some paperwork with you?

Mr WEDDERBURN: Yes.

The Hon. JOHN RYAN: Do you still have that?

Mr WEDDERBURN: Yes, I do.

The Hon. JOHN RYAN: Can you provide that to the Committee?

Mr WEDDERBURN: Yes, I certainly can.

The Hon. JOHN RYAN: Because it is legal advice to Westfield I suspect the Committee might need to take it confidentially.

Mr WEDDERBURN: I assume that if Westfield knows that the legal advice that they own is being tendered to the Committee they may seek to discuss how it is handled. But I am happy to provide it to the Committee.

CHAIR: We will accept it on that basis.

The Hon. JOHN RYAN: Did you take notes of what individuals had said to you?

Mr WEDDERBURN: I took notes about all of the planning and court matters. As a matter of course when people from time to time make allegations to me my standard procedure would be to advise people that if they are making allegations of corruption that they will refer those to an appropriate authority, either to the ICAC or to the police or the PIC or someone. In this case though he and Mr Marshall had certain papers relating to the project, some of which I assume were legal and planning documents; many of them were, they referred to them from time to time. Mr Ryan did not provide me with a written dossier of his allegations.

The Hon. JOHN RYAN: Did you have anybody else from the Premier's Office with you while you were interviewing them?

Mr WEDDERBURN: No, I did not.

The Hon. JOHN RYAN: Was there anybody-else in the meeting otherwise?

Mr WEDDERBURN: No. There were three people in the room: myself, Mr Ryan and Mr Marshall.

The Hon. JOHN RYAN: In any event, Mr Ryan and Mr Marshall named names and gave you details of action they believed had been corrupt. Given that many of these events had happened months prior and had been dealt with through the legal process by a decision of the court, did they say something had happened that made it urgent? Given they had probably known about the issues, what suddenly prompted them to do it in April?

Mr WEDDERBURN: On the planning in court matters Mr Ryan said Westfield was angered that a matter they were told last year would be resolved by the court, he said told by the department or by the Government, or words to the effect, that it would be left to the court, he was—Westfield was probably very surprised that one of the first matters that council in administration dealt with after the elected council had been dismissed and other officers attached to that council removed in March, Westfield was alarmed, concerned that one of the first matters dealt with by the council in administration was the LEP I think on April 13, the amendment to it. As I said, they had been told by DIPNR, or the Government as I said, last year that the matter then on its way to the Land and Environment [L and E] Court would be left to the court. I cannot speak for Mr Ryan or his colleague other than to imagine that they were also concerned when the council was dismissed in March they may have had reason to think that the matter might have ended there.

The Hon. JOHN RYAN: Given that that event happened in March—

Mr WEDDERBURN: Which event?

The Hon. JOHN RYAN: The event of the council making a decision to refer an LEP—

Mr WEDDERBURN: That was in April. April 13, I think you will find is when they put it through.

The Hon. JOHN RYAN: Ms Kibble's appointment was in March.

Mr WEDDERBURN: That is right. The council was sacked in March, as I recall, and Gabrielle Kibble appointed as administrator. I think where you are leading perhaps is I understand that the council before it was sacked in December last year considered making an amendment to the LEP. They were later sacked and then the council in administration dealt with the matter in mid-April.

The Hon. JOHN RYAN: Did Westfield tell you that one of the issues that had prompted its decision to make contact with the Premier's Office was that they were concerned with the decision the council had recently made?

Mr WEDDERBURN: Certainly. As I said, Mark Ryan said to me that Westfield had been told by the Government and DIPNR that the matter would be left to the courts. He said that was what they were told last year. I understand that that may have been a matter canvassed here, in testimony, in a briefing note of David Birds dated November last year, mid-November I recall, that that was indeed the position of the department on I think 13 November, that DIPNR's position written in a briefing note by David Birds was that the matter was going to be left to the courts and any consideration of amending the LEP would of course be redundant if the matter had gone the other way perhaps. I understand then DIPNR's advice or their understanding at a local level out of the Parramatta office was that the matter would be left to the court. So I imagine that when Westfield saw the council flip over and decide on 8 December to consider an amendment to the LEP—not just about Orange Grove I understand but another project—that they would have seen that. It would have been an action of the council this time at least in full public glare. I understand it was a council meeting when they dealt with that. The court hearing in the L and E court was 18 December. It was only 10 days after this. So Westfield presumably saw the council's actions to seek to amend the LEP 10 days before going to the court as a surprise, and an alarming one I would think.

The Hon. JOHN RYAN: The issue of the LEP was discussed at your meeting with Mr Ryan and I have forgotten the other gentleman's name?

Mr WEDDERBURN: Craig Marshall.

The Hon. JOHN RYAN: The issue of the LEP was discussed?

Mr WEDDERBURN: In what context?

The Hon. JOHN RYAN: They raised their concerns about the LEP?

Mr WEDDERBURN: Certainly. Their entire reason for coming to me was because they believed that there are corruption issues, possible corruption issues associated with this at the council, and the LEP they thought would never come was now after April 13 steaming its way to the department.

The Hon. JOHN RYAN: You would have been aware that the LEP had come?

Mr WEDDERBURN: That was the reason for him seeking the meeting so urgently. He was concerned—Westfield was concerned, and he was expressing Westfield's views—having seen DIPNR's position late last year and the Government's position, he said, that this would be left to the court. He then saw the council seek to amend the LEP as a cure to a court case that had not yet been heard and a judgment not yet delivered. When they saw the Court of Appeal decision at the end of March heavily reinforce the earlier L and E court decision, he presumably then—he reflecting Westfield—Westfield presumably then thought the matter had ended. The council had, I think, prior to that been sacked. They may have had good reason to believe that for all intents and purposes the elected council's decision to seek to amend the LEP in December that when the council was terminated for culpable negligence in March and Daly confirmed that all the elected representatives and a good deal of the other officers ought to have their jobs terminated they probably thought that was the end of the matter. They can speak to that, of course. They then saw the council in administration put forward an LEP. They may have perhaps in March with the L and E Court of Appeal decision and the sacking of the council under such a probity cloud in March, they might have had good reason before the 13th to think that the LEP may not ever see the light of day.

The Hon. JOHN RYAN: What were they seeking from you about the matter they raised?

Mr WEDDERBURN: They knew of course that it was not my decision nor the Premier's to make. They knew that the matter would be Di Beamer's, the Minister Assisting the Planning Minister, decision to make. The reason to come to see me was not just to put the copious planning and legal arguments which I believed, in fact they told me they had made wherever and whenever possible in formal submissions to the department and others. He raised probity concerns. He said Westfield had very grave, very serious probity concerns about the council, people within it, people infiltrating or seeking to infiltrate the council's decision-making processes.

The Hon. JOHN RYAN: I do not want to cut you short but we have covered that material.

Mr WEDDERBURN: With me or with others? You do not want to hear about how the council was perceived by others?

The Hon. PETER PRIMROSE: It is forensic questioning by Ryan of the Bailey.

Mr WEDDERBURN: They were sacked in March for culpable negligence. When Mark Ryan came to see me I had that in the back of my mind when he mentioned Liverpool council. I did not hold very high views of the council, having seen what Daly had reported in three volumes. Sacking a council from Mayor Paciullo and others back, I had a very, very serious concern about what he was saying because I had already seen this. I had seen that the council was sacked for very similar things: incompetence, negligence, poor risk management. This is a commentary on all of this, surely, of the council. But if you are happy to put the question I will answer it in exactly the same way again. That is my recollection. He spoke with me about the council. He said he believed that they were grubby. He believed that they had been infiltrated and he believed they had been infiltrated by people behind this project.

The Hon. JOHN RYAN: With great respect, you might not have heard or understood my question.

Mr WEDDERBURN: With great respect, I think I understood the question. You just do not like the answer.

The Hon. PETER PRIMROSE: This witness has not been coached by the Opposition leader's staff. That is the difference. He is not answering according to the questions that you have given him before.

The Hon. DAVID OLDFIELD: Who was he coached by?

The Hon. PETER PRIMROSE: He does not have to be coached.

Mr WEDDERBURN: I regard that remark as offensive.

The Hon. PETER PRIMROSE: We have been watching these guys coach.

The Hon. DAVID OLDFIELD: Are you are violet, a shrinking violet?

CHAIR: Order!

Mr WEDDERBURN: I am not a violet. I beg your pardon, Madam Chair, I am happy to answer any of the questions put. But as I said in the opening moments of this Committee, I will not tolerate cheap asides by someone as sleazy and of low morality as him.

The Hon. DAVID OLDFIELD: Of low morality?

Mr WEDDERBURN: Yes, you are indeed. Perhaps you would like to tell the Committee about how you have been squiring the Gazals and Mr Bargshoon around the Parliament for days.

CHAIR: Order!

The Hon. DAVID OLDFIELD: I have no problem with that.

Mr WEDDERBURN: As a member of the Committee, I thought you would gather a bit more impartiality and deal with these issues seriously, rather than squiring people from one side of the argument.

CHAIR: Order! Mr Wedderburn, you will answer the questions.

The Hon. JAN BURNSWOODS: We have all seen them in his office.

The Hon. PETER PRIMROSE: Passing notes. He has got a note there now that has just been passed by Gazal.

CHAIR: The Hon. David Oldfield and the Government members will be silent.

The Hon. JAN BURNSWOODS: Mr Gazal passes a note to the guy two to the right and then the note goes over to him. Look at it! There it is.

CHAIR: Order!

Mr WEDDERBURN: Madam Chair, I am happy to answer Mr Ryan's questions.

The Hon. PETER PRIMROSE: Table the note. Let us have a look at it.

The Hon. DAVID OLDFIELD: With the Labor Party's history of skulduggery, it is amazing you have the affront to raise such a matter.

The Hon. JAN BURNSWOODS: When they are not passing notes to you in here, they are in your office on the ninth floor.

CHAIR: Mr Wedderburn has been good enough to come here today. I want to get through the questions and the answers. I ask both sides to calm down.

Mr WEDDERBURN: I apologise, Mr Ryan. I am happy to answer your question.

The Hon. PETER PRIMROSE: Back to Ryan of the Bailey.

The Hon. JAN BURNSWOODS: Madam Chair, as you know I had put fairly carefully on the record before a commitment about questions. The general manager of Liverpool City Council is due here at 12.30 p.m. Would you ascertain how long Ryan of the Bailey is going to continue with these fascinating questions?

The Hon. JOHN RYAN: I am simply seeking to go through what happened. I do not think anyone would suggest for a moment that any of the questions I have asked are in any way superfluous.

The Hon. PETER PRIMROSE: They are confused.

The Hon. JOHN RYAN: You might be.

The Hon. JAN BURNSWOODS: I did not ask a question about the quality of your questions, although I know you are very sensitive about that. I asked how long will you go on?

Ms SYLVIA HALE: I would think it depends upon the length of the answers.

The Hon. JOHN RYAN: It will take a great deal longer if members interrupt.

The Hon. JAN BURNSWOODS: You have now done over 40 minutes.

The Hon. JOHN RYAN: In regard to the comments that were made to the witness I do not agree with them.

CHAIR: The Hon. John Ryan has a number of questions on this line of questioning. I invite him to continue.

The Hon. JOHN RYAN: Mr Wedderburn, what were the representatives of Westfield asking you to do? As a result of the information they gave you, what did they specifically want from you or the Premier?

Mr WEDDERBURN: There was an anticorruption message to me. They believed that the same forces associated with this unlawful approval given by the council to the developer were already then encircling the Minister.

The Hon. JOHN RYAN: Did they want you to draw it to someone's attention or take some action? I comprehend that they raised with you serious matters which you took seriously, as you would. Did they make a submission to you to tell someone or to do something or to take some action in regard to what they had told you?

Mr WEDDERBURN: They may be less experienced than I am in dealing with allegations of corruption. As I said, from time to time allegations will come on a range of matters. My standard response to anyone who brings them is that if it is a matter that is obviously a police matter I suggest they take it to the police. If it is a matter about police then to the PIC. If it is a matter of general corruption or involving public officials at local government level or anywhere-else within State Government, then I would be recommending that they take that matter to the ICAC.

The Hon. JOHN RYAN: As would I. Obviously they were not just going to tell you a story without saying, "We want you to bring this to the notice of the Premier" or "Can we have another meeting?"

Mr WEDDERBURN: I appreciate that. Could I answer that? I think I gave a response to Mr Ryan that he was anxious to hear. I refer to my statement. I told him that Minister Beamer would stick to the rules and she would not be influenced improperly.

The Hon. JOHN RYAN: Did he want you to speak to Ms Beamer about that?

Mr WEDDERBURN: Mr Ryan did not advise me or tell me how I should act after having received the information he gave.

The Hon. JOHN RYAN: Were they seeking advice from you as to what they should do?

Mr WEDDERBURN: I gave him advice. I said, "If you have evidence of corruption then it is incumbent on Westfield to take it to the ICAC." What he was seeking to do in this meeting was raise with me that Westfield had grave concerns about this process. They believed the process would be corrupted. They believed that the Minister who was about to consider this matter would be encircled by influences trying to penetrate that office and her thinking on this—and not on planning grounds but perhaps for a range of other unrelated reasons.

The Hon. JOHN RYAN: Did they express to you any view about what they thought the Minister already thought about it? For example, were they saying to you, "We think the Minister is already inclined to approve the LEP"?

Mr WEDDERBURN: No, I do not think they did indicate that. I do not how they could have known.

The Hon. JOHN RYAN: They may not.

Mr WEDDERBURN: It is a matter that you would have to put to Westfield.

The Hon. JOHN RYAN: When constituents come to me they sometimes say things like that. Did they indicate to you whether they had had any contact with the Minister's office that had been refused or rebutted that caused them concern?

Mr WEDDERBURN: No, I think all they said to me was that on all the planning grounds and on the weight of evidence as they saw it they had provided, and were continuing to provide, to the Department of Natural Resources and others as much information as they could to support their case on planning grounds.

The Hon. JOHN RYAN: Did they suggest what they thought the Government's course should be with regard to the LEP?

Mr WEDDERBURN: Mr Ryan did not tell me what the decision ought to be but I think it is clear that he was their advocating on Westfield's behalf. I think that is self-explanatory. I do not think he was there advocating on Mr Gazal's behalf.

The Hon. JOHN RYAN: Did they raise any other issues that we have not already discussed in the Committee to date?

Mr WEDDERBURN: No, not that I am aware of. You asked me before about the people they had mentioned specifically and their view about the process. It was not just the dishonest influences they suggested were represented by Mr Gazal, Mr Bargshoon and Mr Mosca. They certainly mentioned that they believed there were perhaps former members of council staff and others who were either leant on or perhaps inappropriately influenced—perhaps over lobbied. They had grave concerns about the council that was sacked. There is no doubt about it.

The Hon. JOHN RYAN: Having explained all of that, I still need to ask: Did Mr Ryan actually ask you to do something about it other than giving you the information? I know what you did but did he ask you to do something—which you might have refused to do?

Mr WEDDERBURN: Are you asking did he put anything to me that I would have regarded as improper?

The Hon. JOHN RYAN: No. Did he ask you to do anything at all as a result of knowing about this?

Mr WEDDERBURN: As I said, if he did not ask expressly I knew what he was presenting. He wanted an assurance from me that I would take action to safeguard the process so that the Minister would be free to make a decision on planning grounds and on the advice of her senior departmental officers.

The Hon. JOHN RYAN: Did Mr Marshall make any different or other requests?

Mr WEDDERBURN: No. If I could characterise the meeting in this respect: Mr Ryan spoke much more often than Mr Marshall in the meeting. Mr Marshall—I do not know his precise title; I could obtain that for the benefit of the Committee—I think knew a good deal more about the specifics of planning and the issues pertaining to the legal matters. I had the impression that he was the person who was looking after the file, I imagine, or this project or this court matter on behalf of Westfield.

The Hon. JOHN RYAN: Was one of the concerns they raised with you specifically the issue that an LEP had been granted very shortly after it had been exhibited and did they table correspondence with you surrounding the exhibition—or in fact a mistake about its exhibition—and then a draft document?

Mr WEDDERBURN: No, I think I made clear that the only documentation I recall that Mr Ryan or Mr Marshall gave to me were a couple of pages of legal advice on specific matters. They had of course all the documentation that you would have expected that company—and any other in the Land and Environment Court—to have. They had the judgments and other legal advice that they would have held.

The Hon. JOHN RYAN: Did they name anyone other than Mr Gazal? For example, do recall whether they named the individual Mr Gerard Turrisi, who worked for the council, or Frank Mosca, who was an architect working for Mr Gazal?

Mr WEDDERBURN: I think I have given evidence that they named three people associated with the project: Mr Mosca, Mr Bargshoon and Mr Gazal.

The Hon. JOHN RYAN: They did not name any members of the council specifically with regard to their concerns about corrupt conduct.

Mr WEDDERBURN: No, I do not believe they named any individual currently working for the council.

The Hon. JOHN RYAN: Did they tell you that they were concerned about corrupt conduct?

Mr WEDDERBURN: Of council officers?

The Hon. JOHN RYAN: Yes.

Mr WEDDERBURN: Serving now and then, yes.

The Hon. JOHN RYAN: Did Mr Ryan then want you to do anything about those specific issues of corrupt conduct?

Mr WEDDERBURN: As I said, I made clear to him—perhaps it was not in seeking a response from me—that if Westfield had evidence of corrupt conduct or improper conduct it was incumbent on them to send that to the appropriate authority. My role was to absorb what he had said about specific individuals not rush into the market and publish that because, as we know, allegations about people are best left to be investigated by an appropriate authority. I think I have answered your question. They mentioned those people. They did not mention Mr Turrisi specifically by name. They said they had suspicions about some of the planning officers who were associated with the original approval back in 2002.

The Hon. JOHN RYAN: But they did not actually ask you to do something—that is, stop the LEP—

Mr WEDDERBURN: They did not have to ask—no; absolutely and utterly, no. I think I said that before.

The Hon. JOHN RYAN: Did they ask you to report to the Premier the information they had given you?

Mr WEDDERBURN: I do not recall that Mr Ryan would have expressly asked me to do any of that. Can I say this about Mr Ryan? He is a former chief of staff to the Prime Minister and it may be that, like me, from time to time he has received representations from individuals or corporations about matters of some delicacy. Professionalism and discretion are required in dealing with these matters. I was not going to publish the names of people who I had not previously heard of in some document or to allege or repeat allegations to

people indiscreetly all over the place. As I have said, I am not an investigator at the ICAC and nor am I a member of the police force. As you have said yourself, Mr Ryan, if people make allegations about corruption or impropriety there are certain places to which we—people like you and I—direct them.

The Hon. JOHN RYAN: But did they want you to do something about it?

Mr WEDDERBURN: They did not ask me to do anything. I said to them that I took their concerns about probity seriously. I took it as an anti-corruption message. I said that Diane Beamer, as the Minister, could be relied upon to stick to the rules and that I would ensure that she would not be criticised after the event for any inappropriate lobbying of her. I understand that under the EP and A Act the decision is hers, and hers alone, to make.

The Hon. JOHN RYAN: Did they want you to warn the various Ministers involved? Did they ask you to do that?

Mr WEDDERBURN: They did not ask me to detail to them what my actions thereafter would be—and I do not think that would have been appropriate for them to have asked or insisted on. They certainly did neither. As I said, Mark Ryan, having been a senior member of government staff himself, presumably knew how I would receive, and possibly act on, it. But he did not tell me how to act and I did not tell him in precise terms what I would do. But I certainly left him with the clear impression that Minister Beamer would make her decision according to sound planning principles and that she would seek the advice of her director general and other senior planners in doing that. I assured them that the Government took concerns about proper process and probity very seriously—the Premier certainly does; he certainly made that clear to me when I gave him a verbal outline of this. Does that answer your question?

The Hon. JOHN RYAN: How long did the meeting last?

Mr WEDDERBURN: I think probably 30 or 45 minutes.

The Hon. JOHN RYAN: When they left obviously you would have reported the events of the meeting to the Premier.

Mr WEDDERBURN: Yes, I did. I draw you to the statement that I think is surely by now available to you.

The Hon. JOHN RYAN: Did you make any written notes of these concerns?

Mr WEDDERBURN: Which concerns?

The Hon. JOHN RYAN: The concerns that had been raised with you by Mr Ryan.

Mr WEDDERBURN: I think I have answered that. I made notes about all of the planning and legal issues but I did not commit to paper the specific—

The Hon. JOHN RYAN: Was there some reason why you did not commit to paper the corruption allegations?

Mr WEDDERBURN: As to things on paper alleging corruption, surely you did not expect me to write across the top of the page, "Corruption", and then the name of three or four individuals. As I said to you, I take allegations of corruption made about individuals—private or public officials—very seriously. No-one deserves to have their reputation traduced by the indiscriminate release of material. As for pieces of paper—perhaps a document where I might handwrite something with "Corruption ... Gazal, Mosca, Bargshoon"—I think the appropriate way to deal with this is not to publish it. But certainly they raised these people, they made specific allegations about the planning processes within the council and they also made clear to me that local politics and political associations were grubbing this up.

The Hon. JOHN RYAN: How much of this material or these events did you report to the Premier? Did you report, for example, the concerns about corrupt conduct to the Premier?

Mr WEDDERBURN: I certainly did. I went to him and spoke with him. I gave him a verbal brief on the types of claims that Mr Ryan had made.

The Hon. JOHN RYAN: Did you include the names of people that he was concerned about?

Mr WEDDERBURN: No, I do not believe I did. But I believe I would have said that it has been suggested that at least one or more of the people have a local political association with the ALP in Liverpool.

The Hon. JOHN RYAN: Did the Premier then give you advice as to what to do after that?

Mr WEDDERBURN: Yes, he did, and I refer you again to what he said. After telling him of Westfield's probity concerns, the Premier told me in words to the effect, "I don't want the Government tarnished by the shenanigans of Liverpool council. I won't tolerate corruption or the perception of it and the Minister should be appropriately advised to stick to the rules."

The Hon. JOHN RYAN: He asked you to speak to Ministers?

Mr WEDDERBURN: I think it might have been the case that I had already, having received the information from Mr Ryan and considered it, sought a meeting with the Minister.

The Hon. JOHN RYAN: Did the Premier ask you whether Ministers had been advised?

Mr WEDDERBURN: No, when I spoke with him about it—I had revealed to him the tone of what Mr Ryan had said—he told me to do the following, as I have just detailed, or words to that effect. I then did meet the Minister the following day.

The Hon. JOHN RYAN: Did the Premier know that you were meeting the Minister the following day?

Mr WEDDERBURN: I believe he expected that I would meet. I am sure in the verbal brief I gave him—

The Hon. JOHN RYAN: There seems to be an awful lot of instruction by inference. You have people from Westfield coming and telling you something, but not actually asking you to do something about it and you have the Premier saying in his representations—

Mr WEDDERBURN: What you are saying is not true. You said did he ask me to do anything and I said that he did not have to ask me to do anything—

The Hon. DAVID OLDFIELD: You knew what he wanted?

Mr WEDDERBURN: For the benefit of Mr Oldfield, I am happy to field all of Mr Ryan's questions and as many as Mr Oldfield wishes to ask.

The Hon. JOHN RYAN: Did the Premier ask you to do something? I understand that he might have had expectations but did the Premier ask you to do anything about this?

Mr WEDDERBURN: Yes, he told me in words to the effect "the Minister should be appropriately advised to stick to the rules".

The Hon. JOHN RYAN: Which Ministers did you understand that to mean?

Mr WEDDERBURN: Minister Beamer.

The Hon. JOHN RYAN: You had a meeting with Mr Meagher the next day?

Mr WEDDERBURN: No. Do you have my statement?

The Hon. JOHN RYAN: Yes, but I have not memorised it.

Mr WEDDERBURN: On Monday 19 April, I met, as we have discussed, Mr Ryan and another and on the following day on 20 April I met with the Minister and her chief of staff.

The Hon. JOHN RYAN: What did you say to the Minister and her chief of staff?

Mr WEDDERBURN: In that meeting the Minister and her chief of staff told me what they knew of the project. We discussed, I think, all of the matters associated with the planning and court matters that were before them, the issue of the jobs involved at the Orange Grove centre was a concern certainly raised there with the Minister about this and the legal position of the council, perhaps with full knowledge of what that was but certainly whether there were legal issues for the council involved in all or any of this. She, having outlined what they were, I then mentioned to her that concerns had been raised with me by Westfield about probity. The Minister told me that she would base her decision on planning principles and she told me that she and her staff would take care to avoid being lobbied.

The Hon. JOHN RYAN: What did you tell them? Did you tell them that you had met with Westfield?

Mr WEDDERBURN: I have just answered that, yes I did.

The Hon. JOHN RYAN: How much detail did you give them about Westfield's concerns, particularly with regard to the corrupt conduct?

Mr WEDDERBURN: We discussed, as I said, their concerns about employees then, and perhaps presently at the council if they are still there, the planning processes. I mentioned concerns that had been raised about councillors and then I also mentioned the names of Mr Mosca, Mr Gazal and Mr Bargshoon.

The Hon. JOHN RYAN: You had not named them to the Premier but you do recall naming them to Minister Beamer?

Mr WEDDERBURN: For these reasons: I was not sure precisely—she is a member for Western Sydney—whether any of the local political associations were going to impact on her directly perhaps in her seat or in an adjacent seat. As I said, certain councillors were invoked and a member of Parliament.

The Hon. JOHN RYAN: Which member of Parliament?

Mr WEDDERBURN: His name is already on the public record: Mr Joe Tripodi.

Mr WEDDERBURN: Were you concerned that he might seek to lobby Minister Beamer on their behalf?

Mr WEDDERBURN: I was concerned that the forces surrounding this project—Mr Gazal and Mr Mosca and Mr Bargshoon—might enlist support or, at least, endeavour to enlist support perhaps in an inappropriate way.

The Hon. JOHN RYAN: Who raised Mr Tripodi's name with you?

Mr WEDDERBURN: I beg your pardon—Mr Ryan raised it with me.

The Hon. JOHN RYAN: That was a concern of Westfield?

Mr WEDDERBURN: Yes, but also councillors. He mentioned two councillors.

The Hon. JOHN RYAN: Did you mention the concerns about Mr Tripodi with the Premier?

Mr WEDDERBURN: I believe I did. As I said, Ryan had said he believed that they would enlist people to do this. There is nothing wrong—in fact, it is entirely appropriate—with members of Parliament whether they are the local member, or a local member, to be concerned about local issues and, indeed, speak with groups and associations in their electorate and individuals about matters of concern. There is nothing wrong with that whatsoever. As a parliamentarian I am sure you are well aware of that. I believe there is nothing wrong with members expressing their concerns to other members of the Government. Of course, the manner in which they

do that is the issue. When I spoke with the Minister and her chief of staff it was evident to me on the morning of 20 April that the names Mosca, a councillor and Joe Tripodi having an interest in this was already familiar to the Minister and her chief of staff.

The Hon. JOHN RYAN: You obviously had been told of corrupt conduct, or potentially corrupt conduct, and you were concerned enough to take that information to the Premier? You were concerned enough to raise it with Minister Beamer?

Mr WEDDERBURN: Yes.

The Hon. JOHN RYAN: Were you aware of your responsibilities under the Independent Commission Against Corruption Act that having come to the knowledge of corrupt conduct within government that you yourself had responsibilities as did the Premier?

Mr WEDDERBURN: Are you quoting section 11 or section 8? I am not a public official, as I understand it, under the Act. I think that is a reference to an officeholder and a public official. But, as I said, when you have evidence that is one thing, when allegations are raised with you—for instance, do you go and research? Do you interpose yourself as the police or an investigation officer for the ICAC or the PIC when people come to you with allegations? I think the answer to that is, no, you do not.

The Hon. JOHN RYAN: When you come to knowledge from a respectable source such as Westfield that there is corrupt conduct within government officials, and potentially corrupt conduct, do you have an obligation to report that to the Independent Commission Against Corruption?

Mr WEDDERBURN: I think you ought to look at a technicality of the Act. I understand that the head of the Premier's Department earlier today gave evidence about it.

The Hon. JOHN RYAN: Did you think you had any responsibility?

Mr WEDDERBURN: I repeat, Westfield believed it had evidence, or at least the suspicions they held, and they raised allegations with me. I said appropriately to them "if you have allegations, or if you have evidence of corruption then you take it to the Independent Commission Against Corruption." They did not allege that Mr Tripodi was acting corruptly. What they alleged of Mr Tripodi was that he may be enlisted inappropriately by forces behind this. The reason I spoke with Minister Beamer is that it is not my role to deny her contact with people whom she believes are appropriate. The reason I went to see her was to make sure that she understood that both she and her staff had to act scrupulously on this matter; that they could not, should not place the Minister or her staff in a compromised position. That was my responsibility and I carried it out. From that day forward there can be no doubt that Minister Beamer, as she always does in my experience, acted appropriately. Certainly on that day I acted to safeguard this in case she was already being encircled by these people and they were going to act inappropriately.

This committee has already heard that three—at least three or four—people associated with the other side of this argument think it is appropriate to turn up at someone's home at 11.30 p.m. in the middle of winter without invitation and then do it again the next day.

The Hon. DAVID OLDFIELD: That is not correct.

Mr WEDDERBURN: I understand that you are not here to answer questions for Mr Gazal as much as you would like to but he and the others know that it was inappropriate conduct. I understood that Mr Oldfield would have an opportunity to ask questions and if he would like to wait I will be happy to answer them.

The Hon. DAVID OLDFIELD: I would like Mr Wedderburn censured if that is possible.

Mr WEDDERBURN: I hope you are not suggesting that I am frustrating the processes.

The Hon. DAVID OLDFIELD: No, I am not suggesting you are frustrating the processes.

CHAIR: Order!

The Hon. JOHN RYAN: You told us that you told the Premier about an allegation of corruption and you made it clear to the Premier that there were concerns about continuing corrupt conduct. Are you aware whether the Premier made a reference of this matter to the Independent Commission Against Corruption once he became aware of this corrupt conduct?

Mr WEDDERBURN: It was not corrupt conduct, as you put it. I think the technicality is that it was alleged by another. I think you will find that if the Premier or I, or any other public official had evidence, I think that would comply with that section of the Act. When someone sends a letter alleging criminality on the part of a police officer or whatever it may be to our office we send it on to the appropriate investigative body. I do not pull the letter and then substitute myself for the Police Integrity Commission.

The Hon. JOHN RYAN: Whilst you might not have received a letter you have obviously received a fairly extensive verbal submission from Westfield naming people, naming events, giving you extensive detail and enough to be reasonably concerned that you need to protect the Government and Ministers. It was detail of alleged corrupt conduct within Liverpool council and you brought that to the attention of the Premier. Do you not then have evidence that you need to pass on to the Independent Commission Against Corruption?

Mr WEDDERBURN: I understand that in an article on 21 July 2004 in the *Sydney Morning Herald* it reported that matters have been "for months" under investigation about this matter out at Liverpool council. That would place the investigation, perhaps if that is true and if the ICAC would confirm it publicly that were looking at Liverpool council planning matters associated with this project a long time before the Minister made her decision. Now, as I said to you, I was not handed a dossier, including photographs, circles and arrows. I was given a verbal brief and I said appropriately to Mr Ryan and his colleague if Westfield has evidence, that they ought to refer matters like that straight to the ICAC.

The Hon. JOHN RYAN: Did you inquire whether they did that?

Mr WEDDERBURN: Having issued that clear expression of mine to Mark Ryan and his colleague, I believed that he was going to act on that.

The Hon. JOHN RYAN: Did anybody in the Government refer this matter—

The Hon. JAN BURNSWOODS: We were to have one last question five minutes ago, Madam Chair.

The Hon. JOHN RYAN: —to the Independent Commission Against Corruption?

The Hon. JAN BURNSWOODS: There is no point waving at me. You either chair the meeting or you make announcements.

Mr WEDDERBURN: I understand that the matter, according to the Herald at least, has probably been under investigation for months, so that would relate to matters. Mr Ryan, as I said, I was not giving evidence of this.

The Hon. JOHN RYAN: Did anyone as a result—

Mr WEDDERBURN: No, I was not giving evidence of this, as I said to you.

The Hon. JOHN RYAN: I think you were.

Mr WEDDERBURN: I was told that Westfield had concerns about this. They had allegations of corruption and I said to them, "If you have any evidence of this, you should take it to the Independent Commission Against Corruption". If they did not have evidence at that meeting and if they did not give me the evidence, how did I or the Premier have evidence consistent with section 11 or 8 of the Act that either he or I should have handed on to the ICAC?

The Hon. JOHN RYAN: It might be said that you deliberately made sure you did not have it because you did not take any notes of these matters.

The Hon. JAN BURNSWOODS: Madam Chair, how many more one questions are you going to allow this person to ask?

The Hon. JOHN RYAN: It may well be said that you deliberately made sure you did not by taking no notes about the very matter about which they came to see you about; you took no notes about it in order to hand it on.

The Hon. JAN BURNSWOODS: He has been going 1¼ hours. Madam Chair, could I please get some guidance from you as to how many times you are going to tell us that he has one more question?

CHAIR: Order! Can you answer that question?

The Hon. JAN BURNSWOODS: Madam Chair, I have taken a point of order. You said some minutes ago that Mr Ryan had one more question. He has been going now for 1¼ hours, repetitively, boringly and nonsensically.

CHAIR: This is Mr Ryan's final question.

The Hon. JAN BURNSWOODS: Again. Is this the final, final question or the final, final reply? Look, here is another one from the minders. So, how many final questions do you have?

The Hon. JOHN RYAN: I will just read to you a section of the Act—

The Hon. JAN BURNSWOODS: Mr Ryan, I have asked the Chair to rule on my point of order. What is your ruling?

CHAIR: My ruling is that Mr Ryan has got one more question.

The Hon. JOHN RYAN: Section 11 of the Act says: "Any officer to whom this section applies is under a duty to report to the Commission any matter that the officer suspects on reasonable grounds concerns or may concern corrupt conduct." Is it not fair to say that given the high level of representations that have been made to you, and the details that have been given to you, you are well and truly on reasonable grounds, with the information you gave, would have put the Premier—given him reasonable grounds—particularly given that the reasonableness test would have been added to the fact that you took into consideration your need to warn other people—

Mr WEDDERBURN: Mr Ryan, I do not have the benefit of having the Act in front of me to refer to and rather than rely on your legal advice and whether it pertains to me, I would prefer to seek the advice of an experienced and gifted counsel, but I think you will find—

CHAIR: After 16 years the Act has been in place.

Mr WEDDERBURN: I beg your pardon?

CHAIR: The Act has been in place to 16 years.

The Hon. JAN BURNSWOODS: Madam Chair!

Mr WEDDERBURN: Excuse me, is this a document that I ought to have?

The Hon. JOHN RYAN: I take it, anyway, nobody did—

The Hon. JAN BURNSWOODS: Is this another question, is it? Is this after the final question?

Mr WEDDERBURN: Excuse me, I am not a solicitor of the Supreme Court nor a barrister at the bar in New South Wales, but I am neither the Ombudsman, I am not the Commissioner of Police, a principal officer of a public authority or an officer who constitutes a public authority, so section 1—I suggest you read the Act and I suggest you get some sensible legal advice because I think you may not have understood the Act.

Ms SYLVIA HALE: But you are a responsible citizen of the State, are you not?

Mr WEDDERBURN: I would be infuriated at any suggestion to the contrary.

Ms SYLVIA HALE: Therefore, you know what your duty is?

Mr WEDDERBURN: What I am saying to you is that the law is the law and it does not say that I am—

The Hon. JOHN RYAN: You may have misunderstood me.

Mr WEDDERBURN: I think I understood precisely. Listen, if you think you can smear me—

The Hon. JOHN RYAN: I am not smearing you.

Mr WEDDERBURN: Then I am deeply offended.

The Hon. JOHN RYAN: I make no attempt to do that.

Mr WEDDERBURN: And if you think that the Government relied on anything other than that proper process and the rules in this, then you are very, very much mistaken.

The Hon. JOHN RYAN: I think in fairness I asked the question—

Mr WEDDERBURN: No, I think you know exactly what you are doing. You handed to me a copy of the ICAC Act—

The Hon. JOHN RYAN: I have not. I do not know where that came from.

Mr WEDDERBURN: Well, it is here in front of me.

The Hon. JOHN RYAN: I am not aware of where that came from.

Mr WEDDERBURN: You had a copy of it a moment ago.

The Hon. JAN BURNSWOODS: It was the guy in the gangster suit over there.

The Hon. JOHN RYAN: I did not ask anybody to give it to you and I did not hand it to you.

Mr WEDDERBURN: Mr Ryan, you have alleged that I fit into this description of the Act—

The Hon. JOHN RYAN: No, I said it referred to the Premier.

Mr WEDDERBURN: And I have said to you that I am neither of these.

CHAIR: Does the Premier fit those categories?

The Hon. JOHN RYAN: Does the Premier fit those categories?

Mr WEDDERBURN: I would seek legal advice on whether, indeed, he does, and whether any other section pertaining to this would have been relevant.

The Hon. JOHN RYAN: I think he is the principal officer of a public authority.

Mr WEDDERBURN: As I said to you, Mr Ryan, time and again, if people make allegations of corruption, they are not evidence necessarily. They may indeed lead to the evidence.

CHAIR: Mr Oldfield has some questions.

Ms SYLVIA HALE: So do I.

Mr WEDDERBURN: Can I seek some guidance from the Chair? How much longer would you like to go because I am happy to sit here and take the questions?

The Hon. PETER PRIMROSE: I think we should go until we finish.

Mr WEDDERBURN: Because I am anxious that other witnesses have been called and they have been waiting for 45 minutes.

CHAIR: Mr Wedderburn, I am advised that you are correct about the problems with the audio system and the clerks have suggested that we should be a break.

Mr WEDDERBURN: Well. I hope there is no problem with the transcript.

CHAIR: So do I.

Mr WEDDERBURN: Yes, because I will be very delighted to see it when it comes out.

The Hon. PETER PRIMROSE: Five minutes.

CHAIR: We will have a five minute break.

The Hon. JAN BURNSWOODS: Madam Chair, the last witness was due at 12.30 p.m. The lunch break was due at 1.15 p.m. Mr Wedderburn has now been here for 1½ hours instead of the 45 minutes that had been set aside. As yet, no-one other than Mr Ryan has had a chance to ask a question. Before you adjourn for any length of time, given that we have missed a whole witness and we have missed the start of the lunch break, could you please tell the Committee how much longer you intend to proceed with this witness?

CHAIR: Mr Wedderburn has very kindly suggested that he will continue to make himself available to the Committee.

The Hon. JAN BURNSWOODS: That was not my question, Madam Chair. Members of the Committee have a right to know how much longer and we also have a right to know how much time you, as Chair, intend to allocate to different members of the Committee to ask the questions.

Ms SYLVIA HALE: Ms Burnswoods, it was my understanding—

The Hon. JAN BURNSWOODS: Is this to the point of order, is it?

Ms SYLVIA HALE: It is to inform you as to my understanding at least, that is, that Mr Ryan was to be given an opportunity to ask questions for however long that would take, then it would become the turn of the crossbenchers and then they would be given as much time and then the Government.

Mr WEDDERBURN: I am happy to keep going for the benefit of Ms Hale and Mr Oldfield.

CHAIR: We will have a five-minute break for audio purposes. We will resume then and the crossbenchers will have time to ask questions and then Government members.

(Short adjournment)

CHAIR: I resume the hearing. I understand the microphones have been fixed.

Mr WEDDERBURN: I cannot hear a thing.

CHAIR: We are now on the air, so I will resume the hearing.

Mr WEDDERBURN: I can barely hear you, Madam Chair.

CHAIR: Does it help if I move the microphone closer?

Mr WEDDERBURN: That is better, thank you.

CHAIR: Now that everybody is happy with the audio, I acknowledge that there has been some across-the-table dialogue. I ask that we stick to questions and answers. I ask Mr Wedderburn—although I appreciate that sometimes it is difficult—to try not to be diverted by across-the-table dialogue, to put it gently.

Mr WEDDERBURN: Certainly.

The Hon. DAVID OLDFIELD: Mr Wedderburn, I will take up where the Hon. John Ryan left off. If I can understand your evidence in a nutshell with regards to this meeting, you had approximately 40 minutes with Westfield and that was with Mr Ryan and Mr Marshall, and the majority of what they had give you and the purpose of the meeting was to disclose their concerns about corrupt conduct and the capacity of various people in Liverpool to get to Minister Beamer, and the concerns they had for the way the issues went through the Liverpool council. That was the majority of what they wanted to talk about?

Mr WEDDERBURN: My recollection, with Mark Ryan and Westfield on the 19th, is that they spoke at some length—obviously in a good deal more detail—about all the matters associated with the project but I think I have answered previously—I am happy to say so again—that they certainly devoted a reasonable amount of time to their concerns about the processes.

The Hon. DAVID OLDFIELD: But you took no notes of the allegations they were making in regards to the various people and various matters that were being alleged?

Mr WEDDERBURN: No. I think I said in an earlier question of the Hon. John Ryan's that committing allegations about people to paper can often do those people a disservice. People protect their reputations strenuously, in my experience, and, as I said to you, they did not give me a dossier. They were allegations, their allegations, of this type of conduct. As I said to you and the Committee previously, my statement to them was that if they have any evidence of this they ought to take it to an appropriate authority of the Independent Commission Against Corruption.

The Hon. DAVID OLDFIELD: I appreciate that you have said that many times. Can you tell me, though, whilst you did not make any notes under circumstances where you were concerned about potentially besmirching these people unfairly just due to the allegations made by Westfield, would not these notes have been only for your own purposes, or possibly to inform the Premier?

Mr WEDDERBURN: Indeed they would have been for my own purposes but—

The Hon. DAVID OLDFIELD: Then why were you not concerned that today, for example, when putting all of those allegations and naming all of those people in the statement you have given us, which clearly besmirched them and would make it well known amongst everybody, including all the media who would of course transmit that to the entire State, if not the entire country?

Mr WEDDERBURN: Could you put the question again? I think it was a statement. I was not sure that it was a question.

The Hon. DAVID OLDFIELD: Simply, you were not prepared to keep notes essentially just for yourself because of the potential of besmirching these people—apparently even for yourself or for the Premier—but you were happy to put all those names and all these allegations of corruption and where they came from and the concerns of Westfield in your statement to us today.

Mr WEDDERBURN: I was asked to attend today, and indeed I did, and for that purpose—to guide the Committee about dates of meetings and so on—I have provided the statement. I did not think there was any complaint about providing it. But the simple fact is that this is what I recall was alleged to me by Westfield.

The Hon. DAVID OLDFIELD: It just does not seem entirely believable that you had a 40-minute meeting that was primarily simply Westfield not asking you to do anything—though I note you said that they were clearly advocating on Westfield's behalf and that you knew what they wanted without their saying it—it does not seem appropriate nor terribly believable—

Mr WEDDERBURN: No, Mr—

The Hon. DAVID OLDFIELD: I will finish the question—that you spent 40 minutes hearing all these allegations and not making notes because of your concern, just in your private notes, of besmirching these people by associating their names with allegations, yet today you are coming before the Committee and before being asked any questions of any kind with regards to what the meeting entailed, you have besmirched all of these people in a manner completely publicly, which is a manner you were not willing to do yourself in your own notes.

Mr WEDDERBURN: As I said to you before, I think, as a matter of professional standard and discretion, that I was not going to commit to paper and then flip around the place to others things which are allegations. As I said, I was not given a dossier of information by Westfield. I was told their beliefs, their allegations, about certain people and conduct, so I think to have perpetuated that—but both you and I know that the release of information in this forum is sought for this. I was not going to publish this material willy-nilly at any time.

The Hon. DAVID OLDFIELD: But you have, without being asked. You have presented it to us in your own statement. You were not asked about any of these things. You opened this meeting by disclosing all of the matters you have previously thought were inappropriate to even have in your own notes.

Mr WEDDERBURN: Yesterday I understand that the Premier made clear, because I had made clear to him, that the company outlined probity, planning and legal concerns. If you had preferred I not tender the statement—I am not quite sure what the issue is—but if you had asked me—

The Hon. DAVID OLDFIELD: The issue is inconsistency with your concern for them with notes that you were just keeping for yourself, as opposed to your complete lack of concern for disclosing, without being asked, all of these allegations and these people's names and all of the details. You had further concerns to such a degree, even though you did not keep any notes of it, that you informed Minister Beamer's office and informed the Premier of all these concerns and these allegations and the names of the people involved. Is that not correct?

Mr WEDDERBURN: I am sorry, but that was more of a statement than a question again. Could you frame it again?

The Hon. DAVID OLDFIELD: I will try to keep my questions shorter so that you can keep up.

Mr WEDDERBURN: I do not have any trouble keeping up, but if you ask me a question—

The Hon. DAVID OLDFIELD: Apparently you have.

CHAIR: I ask the Hon. David Oldfield to make sure he is asking questions as distinct from making statements.

The Hon. DAVID OLDFIELD: Did you, once having received all of these allegations of corruption, of which you took no notes, go to both the Premier and to Beamer's office or her staff, or Beamer directly—whoever it may have been—and disclose all of these concerns and these issues that had been raised by Westfield?

Mr WEDDERBURN: You are asking me to recall what I said to the Premier in the first instance?

The Hon. DAVID OLDFIELD: Did you tell the Premier about the allegations?

Mr WEDDERBURN: I said to him that Westfield had raised allegations of dishonest conduct and that I had advised them to take those matters to the Independent Commission Against Corruption, if they had evidence of that. When he heard Liverpool council, when he heard staff and when he heard about the other associations, he was of course concerned about that.

The Hon. DAVID OLDFIELD: I have read that in your report—"shenanigans" was used.

Mr WEDDERBURN: Exactly because in March the council, as we all know, was sacked, and they were found to be culpably negligent and so on. But as I said to you, Westfield did not give me any evidence of this.

The Hon. DAVID OLDFIELD: You say they were found to be culpably negligent.

Mr WEDDERBURN: In the report.

The Hon. DAVID OLDFIELD: There was no recourse required of any of them.

Mr WEDDERBURN: I think, if you go back through the file—this report and three others—it is barely a glowing endorsement of Liverpool council. I think you would be the last person to want to defend the council after it was sacked.

The Hon. DAVID OLDFIELD: Well, no. It was one of your councils.

Mr WEDDERBURN: One of my councils? I do not understand.

The Hon. DAVID OLDFIELD: It is all Labor. It is a Labor council and it is a Labor Mayor.

Mr WEDDERBURN: They are an LGA of more than 100, I understand, but you cannot say they are my council.

The Hon. DAVID OLDFIELD: They are an LGA of more than 100?

Mr WEDDERBURN: Well, of how many councils there are. I forget. There are 170, are there not?

Ms SYLVIA HALE: And the numbers are rapidly diminishing.

Mr WEDDERBURN: That could be a question put in another place.

The Hon. DAVID OLDFIELD: Did you inform the Premier that there were allegations of corruption?

Mr WEDDERBURN: I said that they had raised allegations of this type of dishonest conduct of the council and that I had said to them they ought to take it to the commission against corruption.

The Hon. DAVID OLDFIELD: And you raised these allegations also with Beamer or the Premier's office?

Mr WEDDERBURN: With the Minister I said that Westfield had raised these concerns about the process. They believed that people may already be encircling her, trying to inappropriately impact on the outcome.

The Hon. DAVID OLDFIELD: Do you see any parallel at all as to Westfield saying it is inappropriate for someone to encircle the Minister while they themselves are encircling the Premier's chief of staff?

Mr WEDDERBURN: I did not regard it as being encircled. I did not believe that I was being encircled at all. They said they had these concerns and, as I said to you and to the Committee on a number of occasions, my advice to them was plain: If they have got evidence of it, they take it to the ICAC. But as far as I was concerned, I did the right thing because I acted to ensure that the process was clear, that the Minister was able to make her decision based on the rules.

The Hon. DAVID OLDFIELD: As you said, "I told him that Minister Beamer would stick to the rules and that she would not be influenced improperly."

Mr WEDDERBURN: Yes.

The Hon. DAVID OLDFIELD: I note that Minister Beamer has refused on a number of occasions, as has Craig Knowles, to meet with the applicant, Gazcorp. What, realistically in the public view, would be seen as

being different when it comes to apparent improper influence between Westfield meeting with you and the two relevant Ministers, either of them, meeting with the applicant?

Mr WEDDERBURN: Well I, as I said to you, Westfield was an allegation, a corruption warning. They believed that was the case.

The Hon. DAVID OLDFIELD: Of which you took no note.

Mr WEDDERBURN: Well, as I said to you, Mr Oldfield, that is suffice to say they did not provide me with evidence of this: there was no dossier, there were no photographs, there was no specific allegations between one individual on a particular day and so on, the sort of thing that we would regard as evidentiary.

The Hon. DAVID OLDFIELD: But you took it seriously enough to inform the Premier and to inform Minister Beamer's office.

Mr WEDDERBURN: Yes, because I was concerned that she safeguard herself and her staff; that she is in a position where she is about to consider a matter and she knows from advice from her director-general and other senior planners in her department and her understanding of the EP and A Act and what her responsibilities are in considering this.

The Hon. DAVID OLDFIELD: But you did not think it was appropriate to actually inform the ICAC yourself?

Mr WEDDERBURN: Of what, Mr Oldfield? As I have said to you before, there has been a suggestion of this. We had, I had nothing on paper. He was not making anything other than allegations relating to this. And, as I said to you, we came to the meeting with a view, with a very dark view of what Liverpool council may have been like; that they were only weeks earlier dismissed, as we discussed. And so, as the Premier said, "Look, if there are shenanigans out at Liverpool City Council and people have got evidence about that then it is not going to be used to shame the Government." As I said to you, I said to Westfield—

The Hon. DAVID OLDFIELD: Where ICAC and where corruption is concerned it seems that you have had this meeting, you have had all these allegations made. The allegations were not such that you wanted to record them on paper or keep any notes of them, or keep the names or keep anybody else.

Mr WEDDERBURN: That is right. I have said I did not want to publish them.

The Hon. DAVID OLDFIELD: You have done that. You just did not want to write them down.

Mr WEDDERBURN: Well, I did not want to publish them. If someone had FOI'd—

The Hon. DAVID OLDFIELD: But you have published them today and you published them without being asked.

Mr WEDDERBURN: Well, Mr Oldfield, in fairness—

The Hon. DAVID OLDFIELD: Let me come back to the question.

Mr WEDDERBURN: No, you have asked a question there. You—

The Hon. DAVID OLDFIELD: Well, actually, I have not finished asking the question.

Mr WEDDERBURN: All right, certainly.

The Hon. DAVID OLDFIELD: You had this situation where you had this meeting. You have all these allegations, which occupy the vast majority of the meeting. You do not take any notes—

Mr WEDDERBURN: No, no. I beg your pardon. You have suggested that. I think I have already given evidence that the meeting was somewhere 30 and 45 minutes of duration. I was asked that, my recollections

about the meeting on that day. A fair proportion of the meeting was devoted to this. Whether it was a third or 50 per cent—

The Hon. DAVID OLDFIELD: Well, if it was only a fair proportion of the meeting that was devoted to this and the main objective of Westfield in seeing you was to give you this information, what was the unfair proportion of the meeting related to?

Mr WEDDERBURN: I do not understand the question you put to me.

The Hon. DAVID OLDFIELD: What did you do in the other time that Westfield did not really want, because they came to see you about corruption? If it was not the vast majority of the meeting, what was the rest of the meeting?

Mr WEDDERBURN: I have already given evidence on this. Perhaps you were absent at the time. And it was that they came and went through—as I said, I mentioned Mr Marshall was the other fellow who was there—they went through the L and E court decision, the Court of Appeal matter; they went through chapter and verse, in their view, the arguments against the project, the things they believed the Government, I beg your pardon, the council failed to consider in making, in granting the original approval. And that, of course, took some time because that is what they, of course, wanted to talk—this is the strength of all of this. But, as I said to you, the reason for them, one of the main reasons, I am sure, motivating Mr Ryan was a concern that this was not going to be decided on the rules. That he believed that all of the aces may have been with the person who was going to benefit from it.

The Hon. DAVID OLDFIELD: So did they not say pull out their ace and come and put in a call to the Premier's Chief of Staff? Surely, you can see here you have this situation where Westfield can pull on the meeting with you to tell everybody about all this corruption. You do not take any notes about it and you do not really want to talk about it and pass it on and potentially besmirch these people unfairly, yet you then contact, you then tell the Premier all about it and besmirch these people, apparently, to the Premier. You then besmirch these people to Beamer's office, who these people are trying to get the meeting with. So they failed to get a meeting. The applicants, the people with millions and millions of dollars at stake, and the people who had 450 jobs involved in all of that and all of those families and all of the extra carry on and associated matters of those people and their lives, those people cannot get to see Beamer. Is this because you have told her that they are potentially corrupt on information from Westfield and precluded them from a meeting?

Mr WEDDERBURN: No, when I went to see Ms Beamer it was already evident that people on behalf of Gazal, Mr Gazal, and others had already made contact with the Minister and or the Minister's office. I beg your pardon, with the Minister and the Minister's office. And I do not think it inappropriate, in fact I think it is entirely appropriate that, given that these were allegations raised by Westfield, that I was not judge and jury and going to the Minister and saying, "These people are not worthy of this." I said to her, "It is being suggested that they will enlist people. They will enlist people. They are already motivating people to influence you on this." And I think it has always been my understanding that there is a reasonable amount of submission on the facts that ought to be put to the department and so on, and I think we would all recognise that a standard of lobbying can be regarded as excessive or even inappropriate that to, perhaps, provide gifts for a Minister who is about to make a decision on their behalf and so on. So I hope I have answered your questioning, Mr Oldfield, but, as I said to you, I did not go down and say, as a fact, "These people are dishonest and corrupt."

The Hon. DAVID OLDFIELD: Would you not agree that when a person passes an allegation on to other people, especially when a person of your position passes an allegation on to someone like the Minister, the assistant Minister for Planning, you are, by virtue of passing it on, to a degree, upholding it or at least trying to warn them that this is a problem? Now, you must understand—

Mr WEDDERBURN: No, I disagree with the assertion you have put. As I said to you, I did not judge the allegations. I was not in a position to. But I was certainly, I believed I was right in thinking and doing this, that if—and, as I said, the meeting was not, was very broad with the Minister: that she spoke of her and her knowledge of this matter already. In fact, she provided me with information about the matter that I had not previously heard and we discussed all of the issues attached to it.

The Hon. DAVID OLDFIELD: In your statement—

CHAIR: Mr Oldfield—

Mr WEDDERBURN: Sorry, could I just have the rest of that answer? I am sorry, Mr Oldfield. Just to take this a little further. I did not characterise beyond all reasonable doubt to the Minister that these people were corrupt. I did not go down and repeat the defamation that you might have alleged if I had gone and published it. What I said to her was—

The Hon. DAVID OLDFIELD: So you are suggesting Westfield, that they—

CHAIR: Sorry, can you let Mr Wedderburn finish? He was in midsentence.

Mr WEDDERBURN: No, I am not at all. I am not at all. I am not at all. What I am saying—and, look, it is now a matter of public record and it has been published in at least one daily newspaper that the ICAC has been looking at this for months. That was dated, I think, 21 July if my recollection serves me correctly. And that suggests that this was already with the ICAC. So if you want to cover the ground about "shouldn't this have gone to the ICAC", I think it is now evidence, now in a public record, on the public record, that matters raised here are, in all likelihood, about the processes at the council and about some of the lobbying on behalf of the LEP may already be at the ICAC.

The Hon. DAVID OLDFIELD: Mr Wedderburn—I have not had my time yet based on what John Ryan had.

Mr WEDDERBURN: I appreciate—I did not come, I do not come here lightly. I came at the Committee's invitation and I have heard all week, last week and this week, things that witnesses here have said under oath that were extraordinary. They were just haymaker lies, utter lies. But what I have said to you is that I was not going to put into the public arena this material willy-nilly. This is an allegation, as I said. I said to Westfield if they had evidence they ought to take it to the ICAC. I do not substitute myself for a prosecutor or a policeman or the ICAC and the suggestion that I did anything other than that—in fact, this is exactly what I said to the Minister and she agreed and said back to me that she would make her decision on sound planning principles and that she and her office would safeguard themselves against what they believed would be inappropriate lobbying.

The Hon. DAVID OLDFIELD: I have read that in your statement

Mr WEDDERBURN: That is not to say that every phone call made to the Minister's office is inappropriate or that any other action necessarily is. That will be for others to judge. But if seeking to influence another senior Minister in the Cabinet to intervene in another public official's decision is not corrupt then I will be very, very surprised. It could well be that people behind this project—

The Hon. DAVID OLDFIELD: I think you are going down the right path.

Mr WEDDERBURN: —out of naïveté do not understand that their lobbying can be regarded by others as entirely inappropriate, if not corrupt—

The Hon. DAVID OLDFIELD: Mr Wedderburn, in your statement—

Mr WEDDERBURN: —and sprinkling gifts and benefits—

The Hon. DAVID OLDFIELD: Donations.

Mr WEDDERBURN: —is one thing—

The Hon. DAVID OLDFIELD: Gifts, benefits and donations, perhaps?

CHAIR: Order!

Mr WEDDERBURN: Listen, if you want to ask me about donations, ask the question. But if it is just going to be an aside I would rather wait for the representative of the Greens to ask me a question.

CHAIR: Order!

The Hon. DAVID OLDFIELD: I want to ask you another question in relation to your statement.

Mr WEDDERBURN: I am happy for you to ask your question, but if they are just going to be quite rude asides—

The Hon. JAN BURNSWOODS: His time has expired.

The Hon. DAVID OLDFIELD: Mr Wedderburn—

CHAIR: No, Ms Hale has the call.

The Hon. DAVID OLDFIELD: We have 40 minutes each based on what Mr Ryan had.

CHAIR: Ms Hale has the call.

Ms SYLVIA HALE: Point of order: I believe the understanding was that whatever time Mr Ryan had, the crossbenchers would have an equivalent time and the Government an equivalent time.

CHAIR: Are you happy for Mr—?

Ms SYLVIA HALE: I am happy for Mr Oldfield to have his 40 minutes, then I will have mine and then the Government will have its 80. I think that is the fairest process.

The Hon. JAN BURNSWOODS: Madam Chair, we seek, perhaps, some guidance on this? That was not my understanding, I must admit. But if that is what is going to happen then, given that Mr Ryan had, I think, just over an hour and 20 minutes, that will mean that we will be asking that the witness be here for well over four hours by the time you add the opening statement and the unavoidable problems with the microphones. There are all sorts of rules and procedures we have around here, but I do not think asking the witness to be here for something like, perhaps, five hours would be a proceeding to anybody in the whole State of New South Wales. I do not know what process you are planning to adopt. We all, I think, agreed to Mr Ryan's request that he be not interrupted in the traditional 20, 20, 20 sort of way. He went on and on, as we made clear, all of us, I include Ms Sylvia Hale and the Hon. David Oldfield as well as ourselves, endless points of order pointing out that he had one more question, this is the final question and so on and so on. But now that unfair time to that incredibly repetitive series of questions from Mr Ryan is, apparently, going to be used to suggest that the witness must be here for five hours when I do not know how many witnesses we are behind, but I know the witness after him was scheduled to start at 12.30 p.m.

Ms SYLVIA HALE: If the Government wishes not to ask questions then we will all be here much less time. But as it turns out I think the crossbenchers do.

The Hon. JAN BURNSWOODS: Ms Hale, that is a totally irrelevant remark, which does not surprise me, but my question was addressed to the Chair.

CHAIR: I think that we need to be fair to Mr Wedderburn, and if we can just be fair to each other and we are quite happy to allow flexibility to the crossbench and to the Government members, bearing in mind that none of us would have endless questions to the witness.

The Hon. DAVID OLDFIELD: I have a set number of questions.

The Hon. JAN BURNSWOODS: Madam Chair, could I ask what that actually means? The words sound fine but would it not be appropriate at this stage to discuss some time limits, to put an end to this, to think of all the other people sitting here?

CHAIR: It depends on whether the Government wants to ask 40 minutes-worth of questions.

The Hon. JOHN RYAN: 80 they have got. It all adds up to five hours. It has happened sometimes that the Government members do not ask questions.

The Hon. PETER PRIMROSE: So Mr Ryan has finished his questioning? We are not going to go back to Mr Ryan again, are we?

CHAIR: No.

The Hon. JAN BURNSWOODS: What about yourself, Madam Chair? I notice that you have some questions. Are you going to ask Opposition questions after—

CHAIR: I might have one question, maybe one or two.

The Hon. JAN BURNSWOODS: The trouble with "might" and all of these words—

The Hon. JOHN RYAN: It is not always possible to know, is it?

The Hon. JAN BURNSWOODS: I think this witness deserves, in justice, and I think the other witnesses who are already here deserve—

Ms SYLVIA HALE: I think he deserves for you to stop wasting time. Get on with it.

The Hon. JAN BURNSWOODS: —to have some idea of the time allocations that we are going to have for the rest of the day. We have got a program that was sent to us this morning but it means nothing.

CHAIR: It is as Ms Hale put it, that was the understanding, and if the Government wants to maximise its time we will be here for a very long time.

The Hon. JOHN RYAN: Can I say some of the time that was credited to me was largely time wasted by Government.

CHAIR: We do not need that. There was time credited to the Government members at an earlier hearing, which was not on the schedule.

The Hon. JAN BURNSWOODS: Madam Chair, again I ask you to tell us whether that means that you are going to force this witness to stay here for a period of roughly five hours?

CHAIR: No, I am not going to. I think it is only fair to him that if he indicates he would like to have a break during the course of questions and answers that we would be happy to accede to such a request.

The Hon. JAN BURNSWOODS: Could I also ask you what instructions or guidance will you give to Mr McCully, who was due at 12.30, the two witnesses who were due at 2 o'clock and then the group of witnesses due at 3? What do you have to say to them?

CHAIR: I would say that we are obviously running behind schedule but I hope that they will be patient.

Mr WEDDERBURN: Perhaps for the benefit of the Committee if Mr Oldfield would indicate in minutes how many minutes he would like and Ms Hale how many minutes she would like?

The Hon. JOHN RYAN: Some are determined by the length of the answers.

Mr WEDDERBURN: If you ask the questions I will give the answers as best I can.

The Hon. DAVID OLDFIELD: Where you could give "yes" or "no" would be helpful. For your benefit, Mr Wedderburn, I have read your statement so there is no need to give me the answer again that is in the statement if you think it is a relevant point.

Mr Wedderburn, in your statement it says, "He named Mr Gazal, Mr Mosca and Mr Bargshoon as the dishonest influences behind this project. He said they were already mobilising to exert influence on Minister Beamer. He said they would abuse processes and manipulate local political associations for their own financial

benefit". Bearing in mind that two of these three people you have named are very prominent, very high profile and influential members of the Labor Party in the Liverpool area, could you understand—

Mr WEDDERBURN: Sorry, which of the two are—

The Hon. DAVID OLDFIELD: Mosca and Bargshoon. Bargshoon is one of your greatest ethnic numbers crunchers, and Mr Mosca is a branch president and a 20-year friend of Craig Knowles. Given that, can you understand why your meeting with Westfield and then their apparent corruption and lack of capacity to meet with Beamer looks like Westfield coming in at the top to say, "Stop the other lobbyists at the bottom". It is sort of like, "Cut these guys out of the picture. Don't let them get to Beamer. Don't let them get to Knowles, because they are corrupt and they have abused all these processes and they are encircling", as you have put here, "Minister Beamer". Now one could say that that they encircled you so that the others were not able to encircle those beneath you.

Mr WEDDERBURN: I have already answered the question you have given me. I said I did not believe I was encircled. What I said to the Minister, and what she repeated back to me, was that she would make a decision based on the rules and she took on board that she and her staff would avoid being lobbied in an inappropriate way. Now I understand that Westfield may have provided a single written request to come and see either the Minister or the head of the Department and it either was or was not replied to, I do not know, I have just heard that, I think, in evidence here. But there is a distinct difference between lobbying and excessive lobbying or inappropriate lobbying and I am not quite sure what 40 phone calls—which is something I have heard stated here in questioning—from one person associated with this project to the planning Minister's office was other than an excessive degree of contact.

The Hon. DAVID OLDFIELD: Could that not have been because they could not get a meeting? In your statement here you also state, "On April 20 2004 I met with Minister Beamer to issue an anticorruption warning. Minister Beamer told me that her decision would be based on sound planning principles. She told me she and her staff would take care to avoid being lobbied". Can you not see that it looks very clearly that Westfield can get a meeting at the absolute highest level and then you can stop Beamer from meeting with anybody on the matter—"avoid being lobbied"?

Mr WEDDERBURN: No, what I—

The Hon. DAVID OLDFIELD: Because they did not get a meeting with Knowles or Minister Beamer.

Mr WEDDERBURN: I clearly said to her, and she repeated back to me, that she knew the difference between being appropriately advised by the proponent or the opponent of something and my message to her was, "avoid any position where you will be seen, when you have made a decision, whatever decision you make, that you will have perhaps been enticed into a meeting". For instance, when I spoke with the Minister and her staff and I mentioned certain names on the Labor side of politics in the council, and as we have discussed before, that Mr Tripodi's name has been mentioned by Mr Gazal and Mr Mosca and Mr Bargshoon as an advocate for them; they believed that they had enlisted his support, and I agreed that as a local member—not the local member perhaps—but as a local member it was entirely appropriate for Mr Tripodi to receive their representations and to make an appropriate representation to the Minister. But it is always going to be an issue of dispute about what is appropriate and what is not and what I was clearly suggesting to her is that she, not as you have said, that she should not agree to any meetings, that is not what I said at all, but what I did say to her—

The Hon. DAVID OLDFIELD: The statement says "Take care to avoid being lobbied". "Avoid being lobbied", that is what it says.

Mr WEDDERBURN: But it was not an instruction to her to avoid what she might regard as appropriate contact.

The Hon. DAVID OLDFIELD: You see there are two particular issues occurring here: you are saying it is not a statement to her to avoid contact, yet the result is that neither her nor Knowles meets with the applicants, even though the applicants are actually known to them. But Westfield gets to meet with you. Now the other situations of course you would be aware of. The Premier's comments yesterday where he said that he did not mention this meeting because it did not influence the Government's decision, yet the Government's decision happened to also be what Westfield wanted. Can you see that it would have been seen more likely not to have

influenced the Government's decision if the Government's decision had been contrary to what Westfield had wanted?

Mr WEDDERBURN: No, I do not agree with what you have put and—

The Hon. DAVID OLDFIELD: Can you tell me—

Mr WEDDERBURN: Excuse me, can I answer the question? I have not been under instructions, it is not in the terms of reference that all of my answers ought to be one syllable. I have afforded you the luxury of about a five or 15-minute question—I am not quite sure how long it went for. But I will say again that this was the Minister's decision. She alone, under the Act, makes it. She relies on sound planning principles to make it. She is entitled to consider the section 69 report, I am advised, but it is not the only thing that she is compelled to consider.

My meeting with the Minister was not to say to her, "You can't have any submissions put to you in favour of making the LEP". Now that is what you are suggesting and I most certainly did not say that. I said to her that she had to ensure that there was no thought whatsoever that the shenanigans at Liverpool council were going to start reflecting on the decision that she may make. But the point clearly here is that regrettably there was going to be a decision that was going to provide a benefit to Mr Gazal or not. You have asked over and over again and I doubt very much whether any of this line of questioning is any different from the questions put by Mr Ryan but I am happy to say it, that my meeting with the Minister was to ensure that she safeguarded all of her activity and contact here.

As I said before, this is in a context when I met her on 20 April that she and her chief of staff were already familiar with some of the people's names, if not all of the people's names that I had mentioned. As I said, it was not an instruction that she speak to no one, as you have asserted—and I disagree entirely with the other portion of your question.

The Hon. DAVID OLDFIELD: That it is unfortunate that she did not speak to anyone. So whether you intended it or not you caused her, or something else caused her, not to speak to other people. But, Mr Wedderburn, earlier you said that the Minister would be free to decide—and you have said it again now—on planning matters through advice from her senior planners. If you were not aware before are you aware now that the board of her senior planners actually recommended the approval of the LEP?

Mr WEDDERBURN: No, this is a misrepresentation put by you and other members to the Committee.

The Hon. DAVID OLDFIELD: Who is the senior planner?

Mr WEDDERBURN: I am advised, and in fact I have seen the memorandum—you have asserted that Ms Cheetham and Mr Birds, who are the authors, I understand, of the section 69 report in large part, and yes, I understand that a more senior officer, Mr Gary Prattley, signed off on it and he has given extensive evidence on this, but for anyone to assert, because I do not believe they do, that either Ms Cheetham or Mr Birds would assert that they are the State's most senior planning officers. That is the assertion that you and others have put and we all know that that is quite untrue. Yesterday, I believe, or the day before—

The Hon. DAVID OLDFIELD: They are all saying—

Mr WEDDERBURN: Excuse me, Chair—

The Hon. PETER PRIMROSE: Can he answer the question?

The Hon. DAVID OLDFIELD: He is saying something that is not correct.

The Hon. PETER PRIMROSE: So have you. Let him answer the question.

The Hon. DAVID OLDFIELD: The evidence that we have had is that Jennifer Westacott, the director-general, did not seem to actually know who her senior planner was, but generally it was believed that Mr Prattley was the most senior planner and Mr Prattley wrote off and endorsed the section 69 report.

The Hon. JAN BURNSWOODS: Why did you not ask this question yesterday?

Mr WEDDERBURN: I am happy to listen to this.

The Hon. DAVID OLDFIELD: When the Premier advised everyone that the most senior planner in the State had not signed off on the report who was he talking about?

Mr WEDDERBURN: I believe he was clearly referring to the Director-General of DIPNR, Ms Jennifer Westacott.

The Hon. DAVID OLDFIELD: Well, she is not a planner. She has no planning qualifications.

Mr WEDDERBURN: You can say that. That might be the case but I understand in evidence yesterday Mr Haddad, who is without doubt, without dispute—

The Hon. DAVID OLDFIELD: And also without planning experience.

Mr WEDDERBURN: Madam Chair, may I answer the question? I understand the intimidation that Mr Oldfield wants to inflict on me but it will not change the answers. The Government stuck to the rules, the Minister stuck to the rules on this; we would not be swayed by inappropriate lobbying. There will be no perception or actuality of corruption surrounding this process: that is the message that has to come out of this. This matter is already with the ICAC and it apparently, according to a very accurate source, was there "months ago". So if you want to quibble about this I am happy to talk about this. You have endeavoured, as others may have as well, to disparage Ms Jennifer Westacott—

The Hon. DAVID OLDFIELD: Who has no planning qualifications.

Mr WEDDERBURN: May I finish?

The Hon. DAVID OLDFIELD: So how is she the most senior planner?

Mr WEDDERBURN: There is nothing in the terms of reference that says I have to limit my answers to one syllable. You have tried to disparage the reputation of the Director-General of Planning and Natural Resources—

The Hon. DAVID OLDFIELD: She did that herself actually.

Mr WEDDERBURN: A moment ago you had the hide to say that I had only published this as a way of defaming people, and I have clearly not.

The Hon. DAVID OLDFIELD: I did not say that at all.

Mr WEDDERBURN: You certainly did.

The Hon. DAVID OLDFIELD: I certainly did not.

Mr WEDDERBURN: That is where you were headed, Mr Oldfield.

The Hon. DAVID OLDFIELD: It is now where I was headed as opposed to what I said.

CHAIR: Order!

The Hon. PETER PRIMROSE: Either you control this committee, Madam Chair, or I will call for an adjournment.

Mr WEDDERBURN: I think you will end up before an inquiry yourself at some stage in your near career, no doubt.

CHAIR: The Hon. David Oldfield has one more question.

Mr WEDDERBURN: I would like to answer the question put to me.

CHAIR: I asked both sides to stop interrupting. Mr Wedderburn, you may continue your answer.

Mr WEDDERBURN: You in particular have tried to disparage the character, reputation and professionalism of Jennifer Westacott. I completely and utterly on behalf of the Government reject that. She is without doubt one of the best public servants in the country. For you to absurdly suggest that because she is not a planner that she cannot carry out her duties as the Director-General, I am advised that neither is she an irrigator or a land clearer but she leads the government policy on that.

CHAIR: We heard that yesterday.

Mr WEDDERBURN: But set aside your argument about Ms Westacott. I heard yesterday that Mr Haddad, who you say does not have planning qualifications—

The Hon. DAVID OLDFIELD: He does not have planning qualifications.

Mr WEDDERBURN: With respect, he is one of the people who, I am advised by our Government and possibly the last, is regarded as the best planner in the State.

The Hon. DAVID OLDFIELD: Clearly, all these people are wasting their time going to university.

The Hon. PETER PRIMROSE: Let him answer the question.

Mr WEDDERBURN: By your assessment the head of Agriculture has to be a farmer.

The Hon. DAVID OLDFIELD: No, not at all.

Mr WEDDERBURN: And the head of Fisheries has to be a fishmonger.

CHAIR: I think that probably is the case.

Mr WEDDERBURN: Knowing your experience, you may have a very strong opinion on that.

The Hon. DAVID OLDFIELD: Not at all. But I would see that the person who is the most senior planner had some planning experience.

Mr WEDDERBURN: Could I just make this point briefly about Mr Haddad? It is undisputed that Mr Oldfield's argument about Jennifer Westacott ought to be dismissed. She is a very, very good bureaucrat and she most certainly knows across the breadth of her portfolio what she is doing. Setting that aside, Mr Haddad yesterday said, I believe, in evidence that if he had been drafting or considering the section 69 report, quote or words to the effect, he would have come to an entirely different conclusion. Put that aside, the other fact that must be made too, Madam Chair, is this. If members of the Committee bothered to read the E P and A Act—and I am sure it ought to be a document here—section 70, I recall, you will find that the section 69 report must be "considered" is the word, must be "considered". Not it is the only thing; it must be considered. The terms of the Act are broad, deliberately broad so that the Minister can make her own decision on this. You can go around in circles about this till the cows come home. Minister Beamer made her decision according to the planning rules, according to the rules. My message to her was that she be left to do that and that she guard herself and her staff against contact which later may be deemed to be inappropriate. I think both you and I know the difference between a representation and using a telephone book to get what you want.

The Hon. DAVID OLDFIELD: I am sure we do. I am not sure Beamer does.

Mr WEDDERBURN: If there is any doubt about that, if there has been any inappropriate lobbying, anything inappropriate out at the council, then because we all know as a matter of public record the ICAC is looking at it, they are obviously the best people to determine this.

The Hon. DAVID OLDFIELD: Mr Wedderburn, are you aware that one of the three people in your report in regard to the allegations of corruption, Mr Bargshoon—which you passed on to everybody, as we now

know—recently received a letter from the Labor Party asking him to stand as a candidate for the new Liverpool Council elections when they come up? Are you aware that your party is endorsing a person that you are now alleging is corrupt as a candidate for the council, which you also allege is corrupt—a new candidate to replace the previously corrupt councillors?

Mr WEDDERBURN: Obviously Mr Oldfield's assertion here is something not known to me. He mistakes this: I am the Chief of Staff to the Premier of New South Wales. I assist him, along with many other people, to run the Government. I am not the general secretary of the New South Wales branch of the ALP, nor am I the secretary of any of these branches out there nominating Mr Bargshoon. Seeing that you mention it, Mr Bargshoon's evidence yesterday, you worry about people's reputations. He is the sort of character, according to what he said about certain people yesterday, in his propensity to come to this Committee and spray and provide absolutely no factual basis to his suggestions and allegations—

The Hon. DAVID OLDFIELD: But he is one of yours, not mine.

Mr WEDDERBURN: You may refer to these people as one of mine. As I said to you, I am a member of the Australian Labor Party and so is Mr Bargshoon. But I can assure you we are cut from different cloth.

The Hon. DAVID OLDFIELD: I imagine that is absolutely true.

Mr WEDDERBURN: I do not think it is appropriate for him to be abusing local friendships and associations in the manner in which he did. I would have thought yesterday that most members of the public gallery and right-minded members of this Committee would have been offended by the way he went on some brain-damaged spray about the Australian Labor Party activities 15 months ago—15 years ago. I saw none of that in the terms of reference.

CHAIR: Then you need not comment on it any further.

Mr WEDDERBURN: Indeed. While you raised Mr Bargshoon, one more thing.

CHAIR: Ms Hale has the call.

The Hon. DAVID OLDFIELD: Thank you.

Mr WEDDERBURN: No, thank you.

Ms SYLVIA HALE: Mr Wedderburn, did you receive any advice or assistance in preparing the statement that you have provided to the Committee?

Mr WEDDERBURN: Yes, I did.

Ms SYLVIA HALE: Was that legal advice?

Mr WEDDERBURN: It was from senior counsel, yes.

Ms SYLVIA HALE: Could you tell me the name of that senior counsel?

Mr WEDDERBURN: Could I take that on notice?

Ms SYLVIA HALE: Yes.

Mr WEDDERBURN: I do not know the processes and procedures for this, but I am pleased to provide the answer.

Ms SYLVIA HALE: Is that legal adviser or barrister with you today?

Mr WEDDERBURN: I cannot see. I do not have eyes in the back of my head.

Ms SYLVIA HALE: If you wish to turn your head?

Mr WEDDERBURN: A member of the legal fraternity who represents me is indeed in the room.

Ms SYLVIA HALE: Is he being paid?

Mr WEDDERBURN: I do not believe he is doing it for no fee.

Ms SYLVIA HALE: It is not a pro bono appearance. Do you know how much he is being paid? If you do not know could you provide us with that information?

Mr WEDDERBURN: Certainly. I am sure that it would be consistent with the Office of Legal Representation rates in the Attorney General's Department.

Ms SYLVIA HALE: At the same time could you tell us whether you are paying him or is the public purse paying him?

Mr WEDDERBURN: No, I believe the latter. In fact, I know the latter.

Ms SYLVIA HALE: The public will be paying. You are fortunate indeed. I hope I do not misrepresent what you have said: As I understand it, at the back of your mind in relation to the entire Orange Grove and Liverpool council matter you are very conscious of the allegations of corruption that surrounded the council. In fact, when these issues were raised with you by Westfield, although you did not take any detailed notes, they were sufficient for you to raise them with the Premier who was utterly concerned. I forget the phrase he used about "shenanigans". He said:

I do not want the Government tarnished by the shenanigans of Liverpool council. I will not tolerate corruption or the perception of it. The Minister should be appropriately advised to stick to the rules.

Then presumably at the Premier's behest you approached or spoke to Minister Beamer, conveyed to her the essence of the allegations that had been made, named Mr Tripodi, Mr Bargshoon, Mr Gazal and Mr Mosca and also named two councillors. Was one of those councillors Mr Paciullo, the former mayor?

Mr WEDDERBURN: Yes, it was.

Ms SYLVIA HALE: Could you name the other councillor?

Mr WEDDERBURN: Yes, Tony Beuk. Could I add to that, Ms Hale? I understand those matters were raised in the Daly inquiry in relation to Mr Mosca and his association with either or both of those men.

Ms SYLVIA HALE: You were also aware that in fact the revelations in connection with the Oasis development were such that the Government felt compelled to dismiss Liverpool council in March of this year, just before the State elections when I believe there was a prospect—

Mr WEDDERBURN: I beg your pardon?

Ms SYLVIA HALE: Before the local government elections.

Mr WEDDERBURN: Yes.

Ms SYLVIA HALE: When there was a prospect that the Labor Party was in such ill odour out there that its chances of continuing to control the council after March 2004 might have been significantly reduced. Anyway, the Government stepped in and dismissed the council. You are aware then that the Government appointed an administrator. Do you know who that administrator was?

Mr WEDDERBURN: Yes, I do.

Ms SYLVIA HALE: Who was it?

Mr WEDDERBURN: Ms Gabrielle Kibble.

Ms SYLVIA HALE: I will read you Ms Kibble's qualifications. From 1987 to 1995 she was the Director of Planning in the Department of Housing New South Wales. From 1992 to 1994 she was the Director of the Department of Housing. From 1993 to 1995 she was the Director-General of the Ministry for Housing, Planning and Urban Affairs. This is all in New South Wales. In 1994 she was an officer of the Order of Australia. From 1995 to 1997 she was Director-General of the New South Wales Department of Urban Affairs and Planning. As we all know, she is now currently chair of the Sydney Water Corporation, administrator of Liverpool council and Deputy Chancellor of the University of Western Sydney. Obviously they are very distinguished qualifications, would you agree?

Mr WEDDERBURN: Without doubt.

Ms SYLVIA HALE: All in the area of planning.

Mr WEDDERBURN: Are you after a response?

Ms SYLVIA HALE: Yes.

Mr WEDDERBURN: I do not think anyone disputes that Gabrielle Kibble is one of the most experienced public servants in the country.

Ms SYLVIA HALE: If you had to line her up against Ms Westacott, at the very least their qualifications and experience would be equal?

Mr WEDDERBURN: I do not believe I am in a position to judge that. I think that both are extraordinarily capable people, in my experience. I do not think you can necessarily hold one up against the other. Are you suggesting one has planning qualifications and the other does not?

Ms SYLVIA HALE: No, I am suggesting on the basis of their experience, on the basis of Ms Kibble being appointed administrator to Liverpool council specifically I would suggest to root out corruption, to get the council's affairs in order, to sort out the Oasis mess, in fact to take a very firm control of planning procedures at Liverpool council, and on the basis she had been appointed a month before the meeting with Westfield, it would be reasonable to assume that any recommendation she made in relation to the rezoning of the site and the recommendation for the new LEP for Westfield should be given great weight.

Mr WEDDERBURN: I think Ms Kibble's evidence is she would not have signed off and referred the proposed amendment to the LEP on April 13 unless she supported it.

Ms SYLVIA HALE: That is right.

Mr WEDDERBURN: But I also understand from the evidence that she gave that she was particularly guarded about the language she used. She was quite precise about it. Perhaps you are in a better position than me to recall, but I understand that she did not say that she was promoting this and signing off on it because of its planning merit. There were other reasons that she signed it through. I think they related to non-planning issues, and she was quite explicit in saying that. I draw your attention to that. She became the administrator of a council that was disgraced and culpably negligent. When she was appointed this was a legacy issue for her. The elected council had lit the wick on this in December. When she became the administrator it was one of the matters sitting there and gathering dust, not for too long I presume but perhaps a month or so and she put it forward.

I think if you return to her quite explicit language that there are other motivations for the council—I beg your pardon, for Ms Kibble in particular putting that forward. If you go over her evidence again I think you will find that her reasons for supporting it are not strictly planning grounds but issues relating to non-planning matters. I think she was alluding to that. Whether the council, because of the incompetence of the elected council at a much earlier time, given that the original approval goes back to November 2002, and I imagine she was dealing with this to safeguard the interests of the council—I do not know that as a fact—

Ms SYLVIA HALE: I do not know that Ms Kibble said that.

Mr WEDDERBURN: I do not want to put words into her mouth.

Ms SYLVIA HALE: Well let us not do so.

Mr WEDDERBURN: Point taken. But I believe she was quite explicit that there were not planning arguments that she was putting in support of this.

The Hon. JOHN RYAN: I think she said that they were planning but I accept that they were not the sorts of things—

Mr WEDDERBURN: In any case, the person who follows me today is the current general manager of the council and he is in a far better position to canvass the reasons why the council supported—or at least advanced—the LEP amendment to the Minister on 13 April.

Ms SYLVIA HALE: Annexure 1 of the briefing paper that you received—you had a copy of this advice to Michael Meagher of Minister Beamer's office concerning departmental policy on factory and bulky goods retailing, which was issued 25 February 2004—says, "In summary, our current position on such proposals is DIPNR supports the development of innovation in the retail sector and wishes to ensure that planning does not stifle such innovation nor deny a range of consumer choice of retail formats. The planning system seeks to support investment in the vitality of new and existing centres and the employment and service benefits they efficiently deliver. It also acknowledges that there are some circumstances where non-centre activity provides a community benefit"—and it goes on and on. I put it to you that Ms Kibble, in deciding to adopt the draft LEP and forward it to the Minister for approval, was in fact extraordinary well qualified to assess the planning and social implications before she signed off. Would you agree that she was very well qualified?

Mr WEDDERBURN: No, I refer you to my earlier answer. I will give it again. If you return to the evidence given by Ms Kibble, who is undoubtedly a well-regarded senior planning administrator in Australia, you will see quite clearly that she said—deliberately I believe—that she approved this on social and economic grounds.

Ms SYLVIA HALE: Employment and service benefits.

Mr WEDDERBURN: On social and economic grounds. Once again, as you said, I do not want to put words into her mouth but I do not see anything in the words "social and economic grounds" that essentially refers to the planning merit of this.

The Hon. JOHN RYAN: I think she meant them to be planning issues.

The Hon. JAN BURNSWOODS: Now they are mind readers!

Mr WEDDERBURN: Not "meant"; we all deal with the printed word. My recollection is that she said that it is on social and economic grounds. In any case, I am not a planner and you are asking me whether I agree with someone who was a planner but who is now effectively the mayor of a council.

Ms SYLVIA HALE: That is right.

Mr WEDDERBURN: I do not have the qualifications to dispute Ms Kibble's opinion on planning matters—

The Hon. DAVID OLDFIELD: Or uphold Ms Westacott's.

Mr WEDDERBURN: I think you have had a few shots—

Ms SYLVIA HALE: Would you please ignore that aside?

Mr WEDDERBURN: You have had a few shots at Ms Westacott. I am not quite sure what it is—

The Hon. DAVID OLDFIELD: No, that was a shot at you.

Mr WEDDERBURN: I would be sure if it was a shot at me because I would have fired one back.

The Hon. JOHN RYAN: Point of order: Mr Wedderburn might find it helpful to know that interjections are disorderly and people should not respond to them.

The Hon. JAN BURNSWOODS: After you bored us all shitless with two hours of questions—

The Hon. JOHN RYAN: I beg your pardon?

The Hon. JAN BURNSWOODS: you now find interjections disorderly.

The Hon. JOHN RYAN: I beg your pardon?

CHAIR: Order!

The Hon. JOHN RYAN: I beg your pardon?

The Hon. JAN BURNSWOODS: So you should beg our pardons.

The Hon. JOHN RYAN: I beg your pardon?

The Hon. JAN BURNSWOODS: For what?

The Hon. JOHN RYAN: For the unparliamentary language that you just used.

CHAIR: Mr Wedderburn is ready.

The Hon. PETER PRIMROSE: These guys are carrying on like this and you are now talking about being unparliamentary.

Ms SYLVIA HALE: I have not "carried on".

CHAIR: Order! Mr Wedderburn was about to answer the question.

Mr WEDDERBURN: I would like to have the question again.

The Hon. PETER PRIMROSE: You are continually getting notes from the Sopranos over there.

Ms SYLVIA HALE: I am asking whether you agree or disagree.

The Hon. PETER PRIMROSE: The Greens are upholding the rights of developers now.

The Hon. JOHN RYAN: Interjections are disorderly. Ignore it.

Ms SYLVIA HALE: Given Ms Kibble's eminent record in the area of planning and given that she was appointed to the position in view of the perceived corruption emanating from Liverpool council—

The Hon. JAN BURNSWOODS: Is this still a question?

CHAIR: Order!

Ms SYLVIA HALE: A reasonable person would think she gave very careful attention to any planning recommendation that she made. Would you not agree?

The Hon. JAN BURNSWOODS: That was a question, was it?

The Hon. PETER PRIMROSE: It is an adjournment speech.

CHAIR: Order!

Ms SYLVIA HALE: Or would you say that Ms Kibble was being encircled by corruption?

Mr WEDDERBURN: Ms Kibble is indeed an experienced bureaucrat and would not allow herself to be inappropriately targeted or if she did she would, in my experience, put up a very strong defence. I return to what I said—once again, I am sorry to keep repeating this—but my recollection clearly is that if you look at what she said, one, on the advancement of the LEP through to the planning Minister on 13 April, she was relying on social and economic grounds. She did not put it forward nor did she state that she supported it on planning grounds. I think the other part of your question relates to—in fact, I have forgotten.

Ms SYLVIA HALE: I asked whether you were of the view that Ms Kibble was likely to be encircled by corruption.

Mr WEDDERBURN: And I answered that; indeed I did. Can I say this also because I think you may have suggested that Ms Kibble was put into the council as an anti-corruption measure? Is that what you said?

Ms SYLVIA HALE: I am saying that she was put in there to straighten out the council's affairs and to make sure that everything was done in an above-board and appropriate manner.

Mr WEDDERBURN: For the first time in a very long time. I think that is probably right.

Ms SYLVIA HALE: I do not know how Labor councils run their business.

Mr WEDDERBURN: My opinion on this is that it was a legacy issue that she inherited. She had not been with the council for a very long period of time, as the administrator, before the LEP went up, and only she—as she already has done—can answer for why she agreed to put it to the council and consider it. I understand that she has been spoken to over and over again about that. In addition to that, the witness who follows me, Mr McCully, is the recently appointed general manager and I think there is no suggestion that he is anything other than professional and reputable.

Ms SYLVIA HALE: You would agree that there was no pressure on Ms Kibble to proceed to approve the draft LEP.

Mr WEDDERBURN: What sort of pressure?

Ms SYLVIA HALE: In terms of time. Presumably she was not subjected to any pressures or whatever. If it had gone to council in December and she had taken over in March—

Mr WEDDERBURN: I am unaware whether any pressure was exerted on Ms Kibble from any quarter.

Ms SYLVIA HALE: But if there had been any pressure you would expect her, given her reputation, to resist that pressure and only do what was in the best interests of Liverpool, the Liverpool community and of restoring the reputation of Liverpool council.

Mr WEDDERBURN: Certainly in her role she is effectively the council and she is able. I believe that for reasons completely and entirely not planning grounds Ms Kibble advanced this. I refer back to "on social and economic grounds". There has been argument backwards and forwards about the merits of it but the simple fact remains that, as we have said today, Mr Haddad and others have said that they would come to different conclusions. I also understand that in the extensive files on this matter—the 13 volumes or so—there are other occasions when other planners inside the department question, object to or disagree with the thing going forward. But I suggest to you that it is worth inquiring of others about other reasons why they put the LEP forward. As I said, it was a legacy issue for her. Ms Kibble had only been appointed for a very short time and the matter was put up. I understand that Mr McCully from the council may be in a much clearer position than I about what motivated their advancement of the LEP on 13 April.

Ms SYLVIA HALE: But you cannot suggest for one minute that Ms Kibble, with all her extensive planning background, was prepared to ignore those considerations in putting forward her proposal?

Mr WEDDERBURN: I would not presume to challenge Ms Kibble's opinion on this but I do insist that you return to the evidence she gave. It is my recollection that she agreed to putting this forward and she said

emphatically that she would not have agreed to sign it through if she did not support it on social and economic grounds—underlined—not planning.

Ms SYLVIA HALE: So after you had been approached by Westfield you did not have sufficient faith in Ms Kibble's competence or awareness of the issues to say to Westfield, "Look, the Government has appointed an administrator, a woman in whom we have enormous faith"—

The Hon. KAYEE GRIFFIN: Point of order: Madam Chair, I am not sure that the line of questioning relating to Ms Kibble being appointed as the administrator of Liverpool council has anything to do with the terms of reference of this inquiry. I ask that you rule on this matter.

CHAIR: The terms of reference are quite extensive and I draw your attention to them. There is no point of order.

Mr WEDDERBURN: Are you saying that Gabrielle Kibble's opinion on a planning matter ought to take primacy over everyone else's in New South Wales? I do not know that even she would say that.

Ms SYLVIA HALE: No, I am saying to you that you were approached by Westfield, which outlines its various planning concerns, but you say that the thing that motivated you to talk to the Premier and to the Minister were your concerns about corruption. Did it occur to you—

Mr WEDDERBURN: It was not the only thing. We made that clear when Mr Oldfield—

Ms SYLVIA HALE: But it seems to have been the predominant thing.

Mr WEDDERBURN: As I have said, I am not a planner, nor am I an officer of the Department of Planning and certainly I am not the assistant Minister for Planning. It is the Minister's decision and she can only make it on the advice that she receives and take a view consistent with her responsibilities under the Act. There is no point in coming to a conclusion or editorialising to anyone that Westfield's position is the superior planning position and then advocating that. That is not my role in government.

Ms SYLVIA HALE: Given that the Government has been at pains to appoint an eminently qualified person to clean up the affairs of Liverpool council—or straighten up its affairs—

Mr WEDDERBURN: That is the assertion that you have made. I think you would have to put a question on notice to Minister Kelly as to the reasons for his selection of Ms Kibble. No-one disputes that she is a very capable bureaucrat but she did not go out to Liverpool council and accept the engagement to become the council administrator at Liverpool and also to be the director general de facto of the Department of Infrastructure, Planning and Natural Resources. If you are saying, "Isn't the LEP, because her name is on the back of it, replete with every argument not only social and planning", I do not think you will find that that was her advice to this Committee.

Ms SYLVIA HALE: What I am trying to do—

Mr WEDDERBURN: I am a little uncertain.

Ms SYLVIA HALE: I am trying to discover your own frame of mind at the time. You were approached by representatives of Westfield, who made allegations of corruption. Did you, in assessing whether to talk to the Premier or to talk to the Minister, take into account the fact that the person who had made the decision to recommend adoption of the LEP was a person who only four weeks before had been appointed as administrator of Liverpool council and a person who had considerable planning qualifications? Did that enter your mind?

Mr WEDDERBURN: Could I answer in this way? What she did she had already done by sending it on 13 April. It was all too late. Whatever her opinion was, she certainly believed it ought to be sent to the Minister. The only thing then that I can comment on—because I cannot comment on what was advice to the council about the making or not making of this and in support or not in support—is that an LEP amendment, which is effectively a retrospective approval of something that is already built and has been operating for a few months, is on its way to the Minister and that she will have to make a decision about it based on everything

consistent with the EP and A Act. But she will make the decision, and she will make it based on planning grounds.

I was not to adjudicate. If you are saying "Does Ms Gabrielle Kibble's opinion on planning and other matters still count in New South Wales?" Yes. As I said, it is the Minister's decision so it is really what she comes to consider and whether she has done that consistent with the Act. It would not have mattered whose signature was on the LEP coming from Liverpool council, if indeed it was. All I know is that she is the administrator. I do not know whether it was Mr McCully's signature on it. I have not seen the instrument.

Ms SYLVIA HALE: I do not expect you to agree with it but the only construction I can put upon your evidence today, and the way in which you have answered questions, is that your purpose was to somehow sheet home responsibility to overturning this decision by erecting a smokescreen about corruptions, about Liverpool council that had been dismissed weeks before Minister Beamer made her decision. In fact, it was to distract attention from the meetings that have occurred with Westfield and the apparent outcome of those meetings, namely, the refusal—

The Hon. PETER PRIMROSE: Is this a question?

Ms SYLVIA HALE: I am asking Mr Wedderburn whether he agrees with this construction. Was your whole purpose to erect this elaborate smokescreen to deflect attention from the activities of the Premier and Minister Beamer?

Mr WEDDERBURN: I reject everything I think you said. I say to you again that the anti-corruption bell was ringing but I did not go and clang it out in the public street. I went and made a very important point to a planning Minister that she ought to—as she agreed and said back to me—stick to the rules and avoid or safeguard the process. As Mr Oldfield said, that was not an instruction to her to see and speak to no-one. It was up to her always to make the decision as she did and it was always open to her and her staff to determine what they believed was appropriate or otherwise. If they believed that receiving phone calls, too many, too often, too pointed; if they believed that a particular type of representation was inappropriate—can I just say this too, that from all that I have heard here there seems to be a pretty substantial jump in standard. I have very dear friends. If they turn up at my doorstep at 11.30 at night or 6 o'clock in the morning—

Ms SYLVIA HALE: I am not interested in the time that people turned up.

Mr WEDDERBURN: I think that is inappropriate lobbying. If that were Minister Beamer's home that would have corrupted her decision. The perception of that would have been appalling. She is the Minister making a decision and out of session instead of doing something in an appropriate way and channel, they lob on the doorstep uninvited. You might be offended by me raising this again but if you think that is a standard that other believe is acceptable, I do not.

Ms SYLVIA HALE: I am not interested in people's good or bad manners actually.

Mr WEDDERBURN: It can only ever be in the eye of the beholder. If Minister Beamer and her chief of staff, others and departmental staff believed that contact and persistence and trying to meet them socially and privately is inappropriate they have to make that decision. As I said to you, there is the perception of corruption and there is the actuality of it. Here, perhaps Mr Gazal and others do not understand that there are processes that cannot be interfered with in government. Why? Because they rebound on the people who make them. That is why we have corruption commissions. That is why we have quite strict terms for tender processes and expressions of interest. That is why we have people called probity auditors. But the thing is that is all in the eye of the beholder. She is the assistant planning Minister and my suggestion to her clearly is make sure all contact you have is appropriate.

Do you appreciate the fact that if she had accepted an invitation perhaps, or had been out in her electorate or elsewhere with parliamentary colleagues, and people associated with one side or the other of this pulled a chair up to the table and bought them bottles of champagne that if someone saw that it would have been considered inappropriate. I am not suggesting that occurred. Mr Oldfield has crunched his face but I am using that as an example. I am not saying to Minister Beamer "No more contact", not at all.

The other thing is that in this meeting I elicited things from them. They agreed that people were calling. As I said to you, there is a point at which if someone gets their message across to you that you may regard their persistence as intimidation or unwelcome. As I said on numerous occasions, I received disturbing representations. I did not say to her "this is true". I said to her "just safeguard the processes around this. You have got to be sure that if people do not understand what we all might regard as proper contact that there may be the perception of corruption.

Ms SYLVIA HALE: I could not agree more with you when you say that what is important is the perception of corruption rather than the reality of it—they are obviously both important.

Mr WEDDERBURN: The ICAC looks at both.

Ms SYLVIA HALE: I agree with you entirely. Therefore, do you think the public perception when Westfield donates \$800,000 to the Australian Labor Party between 1998 and 2002 and Mr Gazal donated \$10,000 between 1995 and 2003 is that the influence goes where the money goes?

Mr WEDDERBURN: I reject that. I say also that I am the chief of staff to the Premier of New South Wales and I am not the General Secretary of the Australian Labor Party, New South Wales branch. So issues of donations are not ones that I consider in carrying out my duties as the chief of staff to the Premier. In addition to that, the suggestion Mr Gazal seems to put about the giving of donations is that they are a bribe, the bigger the better. He said here astonishingly that "I should have paid more". If he has that belief then I think he is very much mistaken because there is no connection between political donations in this Government and government policy and decision making. I am sure the Premier would say that. He would insist on it. You seem to want to blur that the Greens political party also receives donations, does it not?

Ms SYLVIA HALE: But not from companies.

The Hon. JAN BURNSWOODS: Rubbish. Go and read Tony Burke's speech in *Hansard*. Go and look at your own web site. Go and look at the list of companies that was read on to the record in the Legislative Council. You are telling lies.

Mr WEDDERBURN: I think you will find that what you have said is untrue. You do indeed receive donations but I am very happy to answer your question.

Ms SYLVIA HALE: As you were quick to point out the perception and great regret of Mr Gazal was that he had not paid enough. In fact, he has at least been fairly open as to whom he gave money. It was to the Australian Labor Party, Mark Latham, Ted Grace, MP, Mark Latham campaign, Minister Knowles' campaign, Fairfield Municipal Committee, the Cabramatta State electorate council, the Mark Latham Werriwa campaign. It is really quite an interesting but very locally focussed series of donations. Do you suggest that you have never been aware of the extent, size or magnitude of the donations by Westfield to the Labor Party?

Mr WEDDERBURN: I am not saying that at all but I am insisting on this that I am not the General Secretary of the Australian Labor Party, New South Wales Branch. I have nothing to do with how donations are made to our political party, nor do I have direct and explicit knowledge of how donations are made to your political party or the campaign of Mr Oldfield or indeed any political party. It is not something that I am engaged in. I, along with others, help the Premier to run a government. I can tell you that there is a distinct separation between the party structure of all of our political parties and the political representatives here. Mr Gazal believes wrongly that if he paid more money he would have got what he wanted. I think that that is a very low view of the people with whom he associates with the party.

The Hon. DAVID OLDFIELD: I think that was said tongue in cheek.

Mr WEDDERBURN: It is a low view. If you are asking me a question "Does Westfield do this or that?" I can tell you that probably along with every other substantial corporate in Australia it probably provides donations to both sides.

Ms SYLVIA HALE: Like James Hardie, I agree.

The Hon. DAVID OLDFIELD: Not to the same degree.

Mr WEDDERBURN: If you want to quibble about things, there are assertions "They always donate to both". I do not know all this because it is not front of mind for me but if it is a private obsession of yours I am happy to answer questions.

Ms SYLVIA HALE: Would you have been happy to have granted a meeting with Mr Gazal if he had made similar representations to Westfield?

Mr WEDDERBURN: It is a hypothetical. I am not aware that Mr Gazal sought a meeting.

Ms SYLVIA HALE: No, but if he had sought one would you have been prepared to give him an audience.

Mr WEDDERBURN: I doubt that Mr Gazal would have sought a meeting. I do not know whether Mr Gazal would have known to come to the Premier's Department.

Ms SYLVIA HALE: That may of course be the difference, might it not?

Mr WEDDERBURN: In answer to that, if he were coming with allegations of corruption about a political process then yes, I may well have met him.

Ms SYLVIA HALE: Would you have taken them to the Premier and the Minister?

Mr WEDDERBURN: I would have treated an allegation of corruption of a process in the same way because it is not an instruction to make a decision, it is simply that she ought to be left unmolested to make the decision she needs to make on the basis on which she has to make it. You want to suggest special pleading and I am saying to you utterly no. The issues you raise about donations, as I said, I have no direct knowledge of them. The ones you rattled off about Mr Gazal's donations in various place to various people, I have no knowledge of it at all. As I said to you, I am the chief of staff to the Premier of New South Wales and I do not have any direct dealings or contacts with people like this who say "this is how we make donations".

Ms SYLVIA HALE: Do you agree there is a public perception that there is something rotten in the State of New South Wales?

Mr WEDDERBURN: If you suggest that I will only see people who are donors to the political party of which I am a member, I do not know whether any of these companies or associations provide political contributions to my political party, the Australian Labor Party or any other.

Ms SYLVIA HALE: It is all on the public record.

Mr WEDDERBURN: NSW Racing, Total Environment Centre, Law Society, Westpac, Tabcorp, Ernest and Young and so on. This is an indication of the companies that come to government from time to time.

Ms SYLVIA HALE: Presumably to buy influence.

Mr WEDDERBURN: You take a very bleak view. I find it particularly disparaging because you are actually make a personal assessment about me that I would only agree to see these people because—that is completely rejected by me. There are people in the public gallery casting aspersions and I ask that if they want to be sworn they ought to give evidence.

CHAIR: I ask people in the gallery not to say anything. The Government has some questions, I understand.

The Hon. PETER PRIMROSE: Are we actually going to have a lunch break?

The Hon. DAVID OLDFIELD: We had that. We had sandwiches and a couple of bits of cheese.

The Hon. JOHN RYAN: The practical observation is that it is likely that Government members will not want to ask a lot of questions and it would be better to finish this, if that is the case.

Mr WEDDERBURN: Does Ms Hale have any more questions?

Ms SYLVIA HALE: No, my time has expired.

CHAIR: Does the Government have a lot of questions?

The Hon. PETER PRIMROSE: I do not have a lot and then that will be it.

The Hon. JAN BURNSWOODS: Perhaps we could be more specific. The Opposition, having used over one hour and twenty minutes, I assume has no more questions.

CHAIR: One or two.

The Hon. JOHN RYAN: You are not going to assume anything. Ask your questions.

The Hon. JAN BURNSWOODS: Mr Primrose has asked when we are going to have a lunch break.

The Hon. DAVID OLDFIELD: We had the lunch break.

The Hon. JOHN RYAN: I assume you do not have many questions so I am happy to bat on and finish it.

The Hon. JAN BURNSWOODS: You have no right to assume anything, and the question was to the Chair.

CHAIR: It has been suggested to me by the clerks that we continue with Mr Wedderburn. I have two questions at the most and that is it.

The Hon. JAN BURNSWOODS: What will we do with the man who was coming at 12.30 p.m. and the witnesses who were coming at 3.00 p.m. and 4.00 p.m.

The Hon. JOHN RYAN: Some of them have been cancelled.

The Hon. PETER PRIMROSE: Who has been cancelled?

The Hon. JAN BURNSWOODS: What, by a decision of the Committee?

The Hon. PETER PRIMROSE: We have just been advised here by the Deputy Chair.

CHAIR: Mr McCully is still here.

The Hon. JOHN RYAN: Mr Jordan is coming and Mr McCully is waiting.

CHAIR: The list is as circulated. I understand that those witnesses are still available.

The Hon. PETER PRIMROSE: So the 12.30 appointment is still ready to go?

CHAIR: Yes.

The Hon. JAN BURNSWOODS: Could you please give us the times for the other witnesses?

CHAIR: I would suggest that after Mr Wedderburn we have a 20-minute break.

The Hon. JAN BURNSWOODS: What time will Mr McCully start?

CHAIR: Straight after that.

The Hon. JAN BURNSWOODS: That maybe at four o'clock, if we are lucky, or it could be five.

CHAIR: It depends on how many questions you have got.

The Hon. JAN BURNSWOODS: So the next two witnesses could start somewhere between six o'clock and seven o'clock.

The Hon. JOHN RYAN: That is right.

The Hon. JAN BURNSWOODS: And then Mr Mosca, Mr Bargshoon, Mr Gazal, et cetera could then start some time around 7.00 p.m. or 8.00 p.m., is that what we are expecting?

CHAIR: That could be right, yes.

The Hon. JAN BURNSWOODS: Could I ask that we have some certainty on some of this?

The Hon. JOHN RYAN: No.

The Hon. JAN BURNSWOODS: I imagine that the witnesses may have a number of appointments and also Committee members have appointments. We cannot, in my opinion, purport to do a proper inquiry, where we put out a timetable that goes from 11.00 a.m. to 3.00 p.m. and then you now agree with my tentative list that we may still be here at 8.00 p.m. That is not the way the Committee should be running its business.

CHAIR: The remaining questions will be directed to Mr Wedderburn and we will have a deliberative meeting during the break when we will discuss the other witnesses' timetable.

The Hon. JAN BURNSWOODS: Although Mr Ryan knows that certain people have been cancelled—

The Hon. JOHN RYAN: I do not know.

The Hon. JAN BURNSWOODS: Madam Chair, you are once again refusing to tell the Committee, the gallery or the witnesses—

CHAIR: I did not do that. I said that the list of witnesses remains as circulated.

The Hon. JAN BURNSWOODS: And that is why I asked what are the times.

Ms SYLVIA HALE: How the hell can she tell?

CHAIR: It depends on how many questions the Government members have for Mr Wedderburn. Is that okay?

The Hon. JAN BURNSWOODS: No, it is not okay. The number of questions the Government has has very little to do with the fact that we are currently three hours behind because of the sheer quantity of questions asked by Mr Ryan, Ms Hale and Mr Oldfield.

CHAIR: Which we agreed to. Mr Ryan?

The Hon. JOHN RYAN: Might I suggest that we complete our hearing and then have a deliberative meeting in which we will discuss all this matter after Mr Wedderburn?

CHAIR: Okay. I think that is a good idea.

The Hon. JAN BURNSWOODS: What do you mean complete our hearing? We have a whole list of witnesses.

The Hon. JOHN RYAN: Complete our witnesses.

CHAIR: We need to allow staff to communicate with the remaining witnesses.

The Hon. JAN BURNSWOODS: You said they were here.

CHAIR: They are, but it would be courteous for us to consult with them, given that we are overdue.

The Hon. JAN BURNSWOODS: I wish you knew what you were doing. I wish you had the faintest clue how to run the Committee.

CHAIR: Have you any questions of Mr Wedderburn?

The Hon. PETER PRIMROSE: Yes. Can I firstly remind you, before I ask these questions, that you are under oath. Do you believe that you have acted appropriately and with due process at all times?

Mr WEDDERBURN: I most certainly do.

The Hon. PETER PRIMROSE: Do you now believe that you have taken the correct course of action in this matter?

Mr WEDDERBURN: I most certainly do.

The Hon. JAN BURNSWOODS: Along the same sort of lines: is it the case that if the opposite decision had been made, then the Government, you and individuals within it, would now be being criticised for overruling planning laws and playing favourites to rich landowners and developers?

Mr WEDDERBURN: I think it is beyond dispute that if that had been the case, that the Government, the Minister who made the decision, would have been criticised for having failed to apply longstanding planning principles going back to the Greiner and Fahey governments about centres policy and I believe that they would have also been under heavy criticism for having failed to acknowledge two court decisions and the decisions of four New South Wales Supreme Court judges. I believe that we would have been criticised for having completely and utterly neglected our own centres policy, which has longstanding roots back to the Greiner and Fahey governments, as well as our administration. The special pleading, the knocks on the door at night, the 40 phone calls to the Minister's office and so on, could have been put in quite a different light and I think it stands in good stead—the Government stands in good stead for having received concerns about probity and having ensured a process that a Minister making a decision was safeguarded.

The Hon. JAN BURNSWOODS: Would you agree that in a case where there are strongly competing interests in a planning matter, that the prudent course of action is to have recourse only to the relevant rules and appropriate planning instruments?

Mr WEDDERBURN: Absolutely. I do agree that in this decision the Minister had to rely on sound planning principles and make her decision based on that. That is what was available to her; that is how she has to make her decision.

The Hon. KAYEE GRIFFIN: Given what has happened with this inquiry and what may happen in the future, do you feel that what you have done in terms of the way you have—and I know you have already said that you believe you have acted appropriately and so on—could I just go back to a question that probably is fairly general in the process: In terms of other people who contact the Premier's Office who wish to discuss matters, as the people from Westfield approached you in relation to their concerns, the way you have handled that approach to you, the meeting you held and the subsequent discussions that you had with the Premier and with Minister Beamer, is that the way that you would handle any other issues that would come to you as the chief of staff of the Premier, where you have someone from outside—whether it was representatives from Westfield, other people or groups—with a concern that they wish to bring to the notice of the most senior person in government in New South Wales?

Mr WEDDERBURN: I think that the manner in which Westfield approached me was entirely consistent, in my experience, with the manner in which other corporations and individuals seek to have their views heard, certainly on matters of probity, and I certainly believe that I dealt with the matter in a professional and prudent way and I believe that the anti-corruption warning was received by the Minister at the right time and in the right way; that it was evident that she, Ms Beamer and her chief of staff, were already being heavily lobbied by proponents in relation to this matter and it was entirely appropriate to make sure that the Minister

safeguarded herself and her staff from any contact, any lobbying, any discussions that would, at a later date, give rise to the speculation that this is corruption.

I must say that having received these, at no stage at the point of the announcement by the Minister and others was this referred to. There was no attempt to release this material into the marketplace to denigrate the people associated with Orange Grove. That was not done. The appropriate place for any of this—the Committee has, from various witnesses, drawn out their views and opinions about things here—this is the appropriate place to do this and also I think down at any inquiry. But, as I said to you, I think the manner in which I dealt with it was appropriate; that I did not want to perpetuate and unfairly judge people when, not evidence but allegations were being put, and I strongly believe that an anti-corruption warning to the Minister was not one that would block out the reasonable interests and arguments being put to the Minister and the department; but that is a matter for the Minister to have considered what was appropriate to come to her and the manner in which it did.

CHAIR: Ms Hale asked if you could provide the Committee with the name of your legal adviser?

Mr WEDDERBURN: Yes.

CHAIR: If you could do that, that would be appreciated.

Mr WEDDERBURN: And there were certain papers too, which I may have already tabled.

The Hon. JOHN RYAN: Whatever Westfield left with you, I think?

Mr WEDDERBURN: Yes, that is right. That was legal advice. I do not think there would be any barrier to providing it. Westfield owns the advice. They gave it to me, so I cannot imagine there is any legal barrier to providing it. Westfield may object so you could seek it under subpoena.

The Hon. JOHN RYAN: To be cautious, we should take it confidential and ask Westfield whether we make it public. Giving it to us can make it a public document is all I am concerned about.

Mr WEDDERBURN: I do not anticipate any hesitation by Westfield; I understand that you may be calling a Westfield officer at a later date and perhaps they can answer for themselves. I could make known through my legal representative to Westfield what it is I have, in case it is unclear by either Mr Ryan or Mr Marshall what they left with me. Perhaps Westfield could provide that when they are next called, but I will take that on notice. I think I have provided the advice that came to me from Alex Smith from the Premier's Department. I think that is a document now tabled; the legal advice that Westfield provided me of two or three pages. Was there any other document the Committee can advise that I can return?

The Hon. JOHN RYAN: The material that Mr Smith tabled with us is different from the material you have given us in one and only one respect. There is a sheet of paper that is attached to Mr Smith's that is not attached to yours. It looks like this. Is there any chance that that page has been left behind or lost since you had it initially?

Mr WEDDERBURN: I will check the file and confer with Mr Smith if he indeed did send it or whether he is in error. I do not believe that page identically appeared in the papers that came to me in hard copy, which is how I received this brief. It was not emailed to me, but I am aware of—that is the only brief I had. Look, I am happy: May I keep that as an exhibit and I will ascertain from the Premier's Department whether they did indeed send it to me? I am not sure that I did, however. I think it might have been Ms Sylvia Hale's question to me. I think something of a similar sentiment might appear elsewhere in that document.

The Hon. JOHN RYAN: Yes. There is another document that looks a bit similar and they apparently were both given. The history of it is that Mr Prattle submitted an earlier brief and then submitted a second one, and it is the second one.

Mr WEDDERBURN: I see. I have to speak to Mr Smith.

The Hon. JAN BURNSWOODS: So you will take that on notice?

Mr WEDDERBURN: Yes.

CHAIR: Mr Wedderburn, I have just one question for you.

Mr WEDDERBURN: Certainly.

CHAIR: You have submitted to the inquiry representations that were made.

Mr WEDDERBURN: I beg your pardon, Madam Chair. I did not hear that part of the question.

CHAIR: The representations that were made by Westfield contain serious doubts about the competence of the council at Liverpool before it was sacked, possible corruption, dishonest influences behind the original approval; that there may be dishonest influences already encircling Minister Beamer; that the people and some associations behind the project were dubious; that there was a perception, if not the presence, of corruption; that they might be already the subjects of corruption investigations; that the council's role and the developer's relationship with the council was smelly; that there were dishonest influences. I think you characterised this in an answer given earlier today as being very disturbing representations. Correct?

Mr WEDDERBURN: Yes.

CHAIR: Can you tell the Committee why the Premier said yesterday that the representations were absolutely a side issue?

Mr WEDDERBURN: The Premier means by that, I believe—and I am speaking for him, but to characterise it—that the Minister's decision has to be made on that section of the act, section 70, I understand, in making the LEP. None of it has a direct—and there is not a line in that section of the Act that says, "must consider matters of probity". It is quite specific about what it was.

The Hon. JOHN RYAN: How would matters of corruption not be a side issue?

Mr WEDDERBURN: I am sorry, you have asked the question. When he described it as a side issue, it was a side issue for Ms Beamer. It was not something that she had to take into account, consistent with her responsibilities as the assistant planning Minister when making a decision based on sound planning grounds.

CHAIR: But it would not be a side issue to the running of the Premier's office, would it?

Mr WEDDERBURN: When you say "a side issue", I think he was being asked—I am happy to consult the transcript of the press conference and put it in that context—but my understanding of what he was asked and what he replied to was that he said, for Minister Beamer, this is what she had to rely on and an issue of probity was, in her deliberations, a side issue.

The Hon. JOHN RYAN: Ha, ha!

Mr WEDDERBURN: You may laugh, but the thing is that she is the assistant planning Minister and there are stipulated processes in the Act, and she was required to stick to the rules, and she did.

The Hon. JOHN RYAN: I think the issue that the Premier was addressing was whether this was important.

Mr WEDDERBURN: I have answered your question.

The Hon. JAN BURNSWOODS: We thought it was the Hon. Jennifer Gardiner who had a question, but now we find, apparently, that there are numerous other questions.

CHAIR: On behalf of the Committee, Mr Wedderburn, I would like to thank you (a) for being here in the first place and (b) also for being here for such an extensive period.

Mr WEDDERBURN: Thank you.

CHAIR: The Committee will now break for a short deliberative meeting. I wish to explain to the other witnesses on the list that we will make a decision to try and be courteous to you. Firstly I will be advised by the Committee staff as to your availability and we will try to work out a timetable, given that we have run over time.

(The witness withdrew)

(The Committee proceeded to deliberate)

CHAIR: The Committee will reconvene. Mr McCully, I thank you for your forbearance. I appreciate you have been here for a very long time. The Committee is pleased that you are unavailable.

GARRY MERVYN McCULLY, General Manager, Liverpool City Council, 1 Hoxton Park Road, Liverpool, affirmed and examined:

CHAIR: In what capacity are you appearing before the Committee—as an individual or representing an organisation?

Mr McCULLY: I was invited by your Committee as general manager of the council, I understand.

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

Mr McCULLY: 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. Do you have a statement that you wish to make at the commencement of these proceedings?

Mr McCULLY: Madam Chair, only that I am here to assist the Committee in any way I can and answer any questions I am asked.

CHAIR: In that case, we will proceed to questions. Are there any questions?

The Hon. JOHN RYAN: For how long have you been with the Liverpool council in your current position?

Mr McCULLY: Since the end of June last year.

The Hon. JOHN RYAN: That is the end of June 2003?

Mr McCULLY: Yes.

The Hon. JOHN RYAN: I am a bit hazy on the timetable, but that means you were the general manager of the Liverpool council covering most of the decisions made on this matter by the Liverpool council, were you not?

Mr McCULLY: In terms of the LEP, not in terms of the development application.

The Hon. JOHN RYAN: You did not have the development application, but you did the LEP.

Mr McCULLY: By the time I got to Liverpool, Westfield's action had been commenced some weeks earlier.

The Hon. JOHN RYAN: Did you bring the matter of the action against Gazcorp to the attention of the mayor at any time?

Mr McCULLY: I think in fact that he told me about it initially.

The Hon. JOHN RYAN: Was there anything unusual—have you investigated in any way the original development application? Has anybody given you any reason to be concerned about the original development application? If so, have you investigated any aspect of it?

Mr McCULLY: I had some concerns about the original application after I heard about the action in that the argument used by the council staff was that the use was an innominate use in terms of the planning scheme.

Ms SYLVIA HALE: I am sorry, did you say "innominate"?

Mr McCULLY: Innominate, yes. In that regard I did then seek to speak to the town planner who processed the application.

The Hon. JOHN RYAN: What did your investigation conclude?

Mr McCULLY: He was convinced by a consultancy report that this was a new and emerging form of retail and something that was not traditional in the normal retail sense. Accordingly he saw there was a good argument to recommend its approval where it now exists.

The Hon. JOHN RYAN: Are you aware that there have been concerns about the fact that the development application was advertised and subsequently approved within a day after the date for advertisements closed?

Mr McCULLY: Yes, I am.

The Hon. JOHN RYAN: Did you investigate those concerns?

Mr McCULLY: I asked the person who processed it and there was quite a reasonable argument put forward to me that there was a mistake made in not advertising it earlier. Once it was advertised and the thing closed, he just wanted to get rid of it off his desk and have the approval put out there. It is something that I do not find unusual.

The Hon. JAN BURNSWOODS: Was that Mr Hunt?

Mr McCULLY: That is correct, yes.

The Hon. JOHN RYAN: Was that Mr Hunt?

Mr McCULLY: Yes.

The Hon. JOHN RYAN: Did you have any reason to speak to Mr Gerard Turrisi about this matter, too?

Mr McCULLY: No. He had left before I was there. He has rung me once since about the matter, but it was a very short discussion. Very little was said, if anything.

The Hon. JOHN RYAN: Do you think that there was anything improper at all in the development application, from what you have seen of it—the processes? You have spoken to the people. I admit that you are obviously not the person in charge at the council at the time, but as far as you know, are you aware of anything improper about the way that the development application was processed?

Mr McCULLY: No, not that I could see.

The Hon. JOHN RYAN: Would you support a statement that the council has been encircled by improper influence or any sort of corrupt conduct in regard to this particular development application?

Mr McCULLY: This particular application never went to the council. It was dealt with by the planning staff, and none of them has indicated to me that they were unduly influenced.

The Hon. JOHN RYAN: That has been another point about this. Is it still the practice of the council that matters that are advertised and do not have any objection to them, are they still not brought to the attention of the administrator, or is that still the benchmark for bringing things to the attention of the administrator?

Mr McCULLY: It is a slightly different circumstance having an administrator there in that one would advise the administrator on a range of applications, particularly if they were large or have employment opportunities and those sorts of things, that the processing of them would not be influenced otherwise and you would find in most councils large, certainly in excess of 90 per cent of applications would be dealt with by delegated authority.

The Hon. JOHN RYAN: Would an application similar to this one still be dealt with by delegated authority if, after advertising, there were no objections raised by Liverpool council?

Mr McCULLY: No, it would not be today.

The Hon. JOHN RYAN: Sorry?

Mr McCULLY: No, it would not be today.

The Hon. JOHN RYAN: What has changed to make that different?

Mr McCULLY: Only me in that I would—any application that I considered was a large application, had high employment opportunities, one would present that to the council for approval. So it is purely a matter of choice of the individual.

The Hon. JOHN RYAN: The choice of which individual, the general manager?

Mr McCULLY: The general manager at this stage. I would discuss it, obviously, with the planning manager and that is the way the delegation would work so that the council actually saw there was a public process of approving large and substantial development applications.

The Hon. JOHN RYAN: Do you think that that improves probity, or is that just a matter of the democratic process?

Mr McCULLY: It is a matter of the process of having large applications dealt with by the public process rather than by a process that can be, on some occasions, brought into question.

The Hon. JOHN RYAN: Did the council have legal advice, or has the council obtained legal advice about the probity of the development application immediately after Westfield launched the challenge?

Mr McCULLY: Yes, it has.

The Hon. JOHN RYAN: If we now move on, can you tell us something about the Liverpool council centre in terms of its activity? Could it be described as deteriorating or growing in terms of its economic activity?

Mr McCULLY: I would suggest it is growing in terms of economic activity. Since I have been there I have certainly seen an increase in vibrancy. There are certainly some older premises that were of another retailing era in the southern part of the central business district that are now closed or in need of renovation. But overall I would say there has been an increase in vibrancy in the town centre.

The Hon. JOHN RYAN: I am just not sure what gets called the southern or the northern part of the town. Is the southern part of the area around Scott Street?

Mr McCULLY: That is correct.

The Hon. JOHN RYAN: There is a significant size building there that looks to me to be completely closed up. Would that be the area where there are largely vacant shops?

Mr McCULLY: There is a section of largely vacant shops where the council, some years ago, acquired them with an intention of putting a road through, I understand in recent times resold those premises. So, yes, that area is certainly in need of redevelopment.

The Hon. JOHN RYAN: With the exception of that, would there be 35 shops in Liverpool vacant now?

Mr McCULLY: If there were that would be at the higher end. I doubt whether there would be that many. I would have doubted it.

The Hon. JOHN RYAN: I would, too. One of the issues, obviously, we have to consider is whether the direct factory outlet would constitute a threat to the central business district. Does the council believe that to be the case? What action has the council taken to investigate whether it is or is not?

Mr McCULLY: I do not have the expertise to answer that directly. All I can say is that the council engaged an appropriate person, Mr Peter Latcham, to review the position before there was support for the proposal.

The Hon. JOHN RYAN: He concluded, as I understand it, it would not be a significant threat to the council.

Mr McCULLY: That is what I understand. He actually put some quantum to that as well.

The Hon. JOHN RYAN: It has been suggested to us that the fact that one of the, in fact, I think, most of the economic impact statements prepared—I think there are three in total—they all agree, or at least seem to agree that there might be \$18 million diverted from Liverpool council centre during the course of two years. Would you see that as being as a result of the factory outlet? Would you see that as being a significant disbenefit for the community?

Mr McCULLY: I think the figure might have been 15. Anyway, 15 or 18, that figure derives from two proposals. One, which is this proposal, which is the smaller of the two then a second proposal, which was by AMP, to put a larger outlet at an area known as the crossroads. So it was a cumulative figure. This particular outlet in itself would not have anywhere near that impact.

The Hon. JOHN RYAN: I have not finished asking questions, but I am happy to give another member a go.

Ms SYLVIA HALE: What was your background prior to commencing at Liverpool as the general manager?

Mr McCULLY: I had been the general manager of Hawkesbury City Council for 17 years and prior to that my professional background is as a town planner and civil engineer.

Ms SYLVIA HALE: So you would, given that background and your qualifications, you would certainly be aware of what is entailed in the planning process?

Mr McCULLY: Yes.

Ms SYLVIA HALE: Would you have ever, in the course of your career, have heard about retrospective rezoning?

Mr McCULLY: Yes.

Ms SYLVIA HALE: Would you say it was a very uncommon practice? It may not be a desirable one, but—

Mr McCULLY: It is probably not desirable. It happens.

Ms SYLVIA HALE: It does happen?

Mr McCULLY: It does happen.

Ms SYLVIA HALE: So Liverpool would not be unique in seeking to legitimise a use after the event?

Mr McCULLY: No.

Ms SYLVIA HALE: When you said that it was an innominate use, it was one that was not specifically spelled out in the zoning table, is that right?

Mr McCULLY: That is right, yes. A lot of town planning schemes do not keep, and nor is it possible to keep, pace with the times. So as there are new, emerging variations and uses then they are considered as innominate uses.

Ms SYLVIA HALE: To keep pace, what you are suggesting is that there is a certain flexibility, latitude there to enable—so that you do not stick strictly to the letter of the law as it were. You, in some cases, exercise flexibility so that you can encourage development such as the retail factory outlet?

Mr McCULLY: It usually depends on the era in which the planning instrument is written. Some are very prescriptive and say you can only approve the following and you cannot approve the rest, in which case there is no such thing as an innominate use. A lot of others, like Liverpool, say you can approve this and you cannot approve this. So if something slips in down the middle then it is something that can be considered for either approval or refusal, depending on the planning argument that was put forward.

Ms SYLVIA HALE: When you say that the town planner who processed the DA thought this was a new and emerging form of retail, he was using his professional discretion to say that he thought this fitted within the categories?

Mr McCULLY: Yes.

Ms SYLVIA HALE: It is only when the Land and Environment Court upheld the Westfield position they took the more strict interpretation of the LEP than the town planner had, is that right?

Mr McCULLY: That is correct. They took a very black and white view of it.

Ms SYLVIA HALE: You would say that, therefore, what has happened—the court's decision, therefore, was not on the merits of the DA, it was a very strict formal interpretation of the law?

Mr McCULLY: Interpretation of what they considered the planning law was.

Ms SYLVIA HALE: There is a very considerable distinction between the two considerations, is there not?

Mr McCULLY: I would think so.

Ms SYLVIA HALE: Were you persuaded by the planner's argument?

Mr McCULLY: After I spoke to him I can understand why he made the decision. I cannot tell you what decision I would have made in hindsight had I been the planner to do it. I have actually thought about that. I do not know. But his argument was persuasive for the reason he came down and made the decision that it was approvable.

Ms SYLVIA HALE: And you do not feel that in reaching that decision any undue influence had been exercised upon him?

Mr McCULLY: No. I have actually asked him that question and he says no.

Ms SYLVIA HALE: Because there has been a suggestion that in fact—I am not sure whether you were listening to the entire proceedings this afternoon—not only the councillors but presumably also the staff have been subject to undue influence.

Mr McCULLY: Look, as far as I can tell in this matter there was no undue influence and as far as I know the councillors were not involved in it at all.

Ms SYLVIA HALE: Has council's notification policy changed since you have become general manager?

Mr McCULLY: No.

Ms SYLVIA HALE: Because I was quite surprised to learn yesterday that in the case of commercial developments that in fact residents were notified but other business organisations that might be affected by that development were not notified.

Mr McCULLY: Because it is a notification to landowners the council is not always aware of who the lessee may be.

Ms SYLVIA HALE: But a landowner is not necessarily just a resident, is it?

Mr McCULLY: No, certainly not.

Ms SYLVIA HALE: I am surprised. Westfield, I suppose, would be too far away to be within the range of notification, would it not? It would be geographically too distant, or would it? I am just wondering whether Westfield should have been notified of the development application?

Mr McCULLY: They may not have been sent a letter directly, but the matter was certainly advertised in the press.

Ms SYLVIA HALE: When the decision was made to advertise the DA when it was realised that in fact this had not taken place, I understand an advertisement was inserted on page 33 of the local newspaper. Was that a one-off special advertisement just for that DA or was it part of the general block of council advertisements of DAs?

Mr McCULLY: I do not know, I was not there, nor have I seen the advertisement.

The Hon. KAYEE GRIFFIN: You said you have been the general manager of Liverpool City Council since June last year, is that correct?

Mr McCULLY: Correct.

The Hon. KAYEE GRIFFIN: Previously you were at Hawkesbury for a substantial number of years as the general manager?

Mr McCULLY: Yes, and prior to that as its chief planner.

The Hon. KAYEE GRIFFIN: In your experience in local government my understanding from the evidence that we have received at these hearings is that at Liverpool the delegated authority for planning came down to presumably a senior planner?

Mr McCULLY: Correct.

The Hon. KAYEE GRIFFIN: In your experience is that how delegated authority tends to work within local government?

Mr McCULLY: No, it normally does not go down that far. It normally goes to the chief planner, maybe one below that. But the rate of development at Liverpool was such that it went to a number of others.

The Hon. KAYEE GRIFFIN: How many people had delegated authority?

Mr McCULLY: I think there were about six.

The Hon. KAYEE GRIFFIN: You said in answer to a previous question that if the original development application had come to council with you as the general manager it would not have been treated in the same manner because of the nature of the development itself. Have you made any changes to the operation of delegated authority at council or how have you actually implemented changes so that something like this Orange Grove development application would be dealt with differently now?

Mr McCULLY: There have been a number of changes. The first of the changes, there has been no confidential business paper of any confidential matters reported since I have been there and I have spoken to the

planners that matters that are different to the usual and are of any substantial size that they would get reported so that the elected council would be making the decision.

The Hon. KAYEE GRIFFIN: You said no confidential business papers. Presumably this was done under delegation so would not have come to council anyway but were some developments being treated through confidential business papers?

Mr McCULLY: No, tenders and a number of other things were, not development matters.

The Hon. KAYEE GRIFFIN: In terms of the changes that you have made, one of the answers to questions the other day was in relation to when this DA went through—and presumably subsequently—how approvals under delegation were done and there was a comment made that the councillors were not perhaps kept informed about what goes through under delegation and things like that; also that there was not presented at council, say as part of a public document, a list of approvals under delegation. Is that still the way things operate at Liverpool?

Mr McCULLY: No. The council had a governance system that involved portfolio councillors. Individual councillors would be nominated to champion a particular part of the council's functioning and then matters in that area that they called portfolios were run by those individual councillors.

The Hon. KAYEE GRIFFIN: What were the portfolios for?

Mr McCULLY: There would be one for traffic, for transport, for environment and one for planning. There are nine of them, I think, altogether.

The Hon. KAYEE GRIFFIN: So you did not have Chairs and committees, you basically had individual councillors who had some responsibility for the carriage of these items?

Mr McCULLY: Correct.

The Hon. KAYEE GRIFFIN: There were questions asked of Mr Paciullo, the former Mayor of Liverpool City, on Monday and he indicated originally, although he subsequently had a recollection, that he had heard that there was a court case involved with the original DA approval. Would not, under normal circumstances, the mayor of the city be advised if there were any legal proceedings pending that would have an impact on a decision that council had made either by delegation or by full council?

Mr McCULLY: Yes.

The Hon. KAYEE GRIFFIN: As the general manager would it be you who would discuss this with the mayor and perhaps the councillors or would it be the manager of your planning section?

Mr McCULLY: The manager of planning would certainly be responsible for telling me and I would then decide whether the matter was of sufficient importance, whether we both should advise the mayor or whether I would send the manager of planning to do that.

The Hon. KAYEE GRIFFIN: I think you said previously that you were concerned about the way you did not have the same type of development process occurring with you as the general manager when you have found out subsequently what was happening with this one, and also the implications for the council. Do you consider that having no objections to a DA should be a trigger for it being dealt with under delegated authority, even if it was not a development as big as Orange Grove?

Mr McCULLY: No, I do not. I think that one needs to make a call on when things go to the elected body so that they are seen to go through that additional process.

The Hon. KAYEE GRIFFIN: In evidence previously Mr Gazal said that he thought that the role of Minister Beamer in considering the LEP was a rubber stamp. Would you agree that a Minister approving a change to an LEP would be looked at as a rubber stamp, or would there be substantial consideration having to be given to any changes?

Mr McCULLY: Certainly not a rubber stamp, no. The Minister has the final responsibility of signing off or not on the matter.

The Hon. KAYEE GRIFFIN: As a planner in your previous life in local government what sort of importance do you place on a section 69 report?

Mr McCULLY: It is a fairly substantial report. It is near the end of the process; it is towards where the matter has been worked up and it is at the stage where it is the penultimate decision-making process from the bureaucratic point of view before it gets to the head of the department and then to the Minister.

The Hon. KAYEE GRIFFIN: When the proposed changes to the LEP came to the council meeting on 8 December last year, before it came to the meeting—do you have any, say, regular discussions with heads of departments in relation to the matters that come to council such as whether it be zonings, tenders, whatever it might be?

Mr McCULLY: Yes.

The Hon. KAYEE GRIFFIN: Did you have any concerns with that LEP or that report that went to council, given that the Orange Grove part seemed to be tacked on to the end of it but there was not much in the body of the report about that proposed change?

Mr McCULLY: I did, and I certainly questioned about it because I was concerned about the impact on the central business district, and I was given a fairly good response to those concerns.

The Hon. KAYEE GRIFFIN: I understand from previous evidence that once council determined that they would pursue the changes to the LEP the department was advised under another section as part of the proposal?

Mr McCULLY: Correct.

The Hon. KAYEE GRIFFIN: When would council have advised the department that you were exhibiting a change to the LEP?

Mr McCULLY: One would assume that that correspondence would have flowed to the department within a few days of the council decision.

The Hon. KAYEE GRIFFIN: In terms of the way correspondence operates out of council there were questions about the original development approval. I know you were not general manager of the council at the time but how many people within your planning department, in terms of correspondence that goes out from council, actually sign letters?

Mr McCULLY: Most of the planners can sign letters. There is a hierarchy of delegated authority for the signing of letters, so for the signing of letters to government agencies it is a second or third tier level; letters to director-generals, members of Parliament, would be first tier level. There would only be one capable of doing that in the planning department. This letter to the department would have been to a senior planner who would have also been of similar status to that of Mr Hunt.

The Hon. KAYEE GRIFFIN: And the changes that you have made because of the issue of this application being dealt with under delegated authority, how does it now work? I know that the next step is if you have three or more objections under the previous system it then went to the development assessment panel—I am not sure if that is the correct term for your council. Does that remain the same now or have there been any other changes in relation to how DAs are dealt with?

Mr McCULLY: The only change is that if there is a large or more substantial development then the matter would be reported to the council with the recommendation for approval or refusal rather than being dealt with by delegated authority.

The Hon. KAYEE GRIFFIN: The advertising period: there was a letter from Mr Turrisi to Mr Mosca regarding the fact that council had neglected to advertise the original DA. Are there better processes? Given the

information that this Committee was given that it was an oversight that the advertising did not occur, are there now other procedures in place that would resolve those sorts of problems?

Mr McCULLY: There certainly are procedures in place, but there is nothing to say that one cannot slip through every now and again, purely because of the volume. I think there are something like 5,000 development applications. As far as I am aware this did slip through someone's radar; they did not see that it was there, and it was just a genuine mistake.

The Hon. JAN BURNSWOODS: Can you tell us who was the councillor with, I think you said, the portfolio of planning?

Mr McCULLY: Councillor Beuk.

The Hon. JAN BURNSWOODS: On the matters that Ms Griffin just asked you about, we did have considerable discussion yesterday, I think it was, about the rule that if there are three or more objections then the matter goes to council. I think you just said that that has now been changed, that there is now a rule that large or more substantial development must be reported. Can you tell us why that change has been made and who made it?

Mr McCULLY: The change was made by me and it is purely what I saw as the perception of the council approving, by delegated authority, those sorts of matters that should be placed through a process that goes to the elected body. The referral to the independent hearing assessment panel remains the same. If there are some matters that are large and more substantial then I consider the elected body—that is what they are there for—should be there to process those matters.

The Hon. JAN BURNSWOODS: Given your view about the perception and the reasons why you initiated that change, would it not be true to say that insofar as that is the case you do have a criticism of the processes previously in place at the council?

Mr McCULLY: I have a criticism of the perception that could be seen of pushing development matters through that should be placed before the elected body, particularly where there are either adverse or positive impacts. In this case there was also a positive impact of a possible large amount of employment, which I consider the elected council should have been aware of.

The Hon. JAN BURNSWOODS: That it could work both ways?

Mr McCULLY: Yes.

The Hon. JAN BURNSWOODS: Nevertheless, the fact that you have initiated the change means that you believe that what is now happening is better than what previously happened?

Mr McCULLY: Yes.

The Hon. JAN BURNSWOODS: I suppose that relates back to two things: in terms of the size of a proposal and its benefits or possible dangers, whether it is contentious or controversial. We have had considerable discussion during this inquiry that those matters should be probably more important than the simple arithmetical calculations as to whether there are objections or not.

Mr McCULLY: Correct.

The Hon. JAN BURNSWOODS: It struck various witnesses as particularly important given, as Ms Griffin said earlier, the issue about the claimed oversight and delay in advertising. As you may be aware, Mr Mosca was sent the draft consent prior to the advertising starting and the whole proposal was approved, from memory, on 15 November when the submission period only finished on 14 November. Yesterday Ms Griffin commented on the amazing speed and also the fact that at other councils it would be usual to wait a few days for late mail, for example. Given those sorts of procedures, do you say that there was ground for being concerned about the approval process in this case?

Mr McCULLY: No, I do not. I am not unusual to processes where planning consents, even those that go to a council meeting, are issued the next day after the council meeting.

The Hon. JAN BURNSWOODS: This was the day after the closing date for submissions. The draft had already been sent to Mr Mosca, the submissions closed on 14 November and the whole thing was signed and formalised on 15 November.

Mr McCULLY: It is a high degree of efficiency.

The Hon. JOHN RYAN: Mr McCully, when you use the words "it is a high degree of efficiency" do you mean you do not think that was a proper thing to do?

Mr McCULLY: No, I think that the planner involved probably got his knuckles rapped for not advertising and doing it properly and he just wanted the thing off his desk, he wanted rid of it.

The Hon. JOHN RYAN: In the end, do you think there was anything incompetent or improper about the manner in which the original development consent was determined?

Mr McCULLY: No.

The Hon. JOHN RYAN: Do you think that Liverpool council staff could be in any way described as incompetent?

Mr McCULLY: No, not at all.

The Hon. JOHN RYAN: The Premier made a reference to Liverpool council stating:

I do not want the Government tarnished by the shenanigans of Liverpool council. I will not tolerate corruption or the perception of it. The Minister should be appropriately advised to stick to the rules.

Do you agree with the Premier's perspective of Liverpool council?

Mr McCULLY: I think there is a bleak view of Liverpool council out there. Certainly where I move there is a bleak view of the council and what it did. So I can imagine those words being said.

The Hon. PETER PRIMROSE: Mr Daly had a bleak view?

Mr McCULLY: A very bleak view.

Ms SYLVIA HALE: That was four weeks after the council had been dismissed. Do you think that was appropriate?

Mr McCULLY: I am not to comment on the Premier's view.

The Hon. JOHN RYAN: We all know the reason for the bleak view of Liverpool council pertains largely to one set of projects. Do you think there is any reason to believe that means that the staff could be criticised for not having processed the development consent properly, with the exception of that one error which appears to have been remedied? Do you think this reflects in any way in improper process on the part of the council?

Mr McCULLY: I can see nothing in the processing of the development application that was improper.

The Hon. JOHN RYAN: You would not have thought that the council made those decisions as a result of coming under some dishonest or corrupt influences?

Mr McCULLY: No. The decision with the LEP was made after the announcement of the inquiry. The decision for the original consent was made by the staff before the inquiry was even mooted.

The Hon. JOHN RYAN: Indeed. The Committee has been told that recent census figures—and when I say recent they are fairly old—show from 1996 to 2001 there was a reduction of 200 retail jobs in the Liverpool town centre. That was given to the Committee as evidence of the fact that Liverpool town centre was in decline, and therefore too fragile to allow development such as the factory outlets anywhere near the town centre which might cause retail to deteriorate any further. Do you have any comment to make that about those statistics or that view of Liverpool town centre?

Mr McCULLY: No, I do not. I have never seen those statistics. There are over 10,000 people employed in the Liverpool CBD. I do not know that they are actually split amongst the various occupations. I had not seen them in that regard.

The Hon. JOHN RYAN: Are you aware of any census statistics like that? They are allegedly Australian Bureau of Statistics census figures.

Mr McCULLY: They certainly could be. There have been lots of movements between the two last census periods. The Department of Housing moved from Liverpool to Ashfield and there would have been hundreds and hundreds of people employed by Department.

The Hon. JOHN RYAN: They would not be retail jobs.

Mr McCULLY: No, they would not be retail jobs. I am unaware that there has been a decline in retail jobs.

The Hon. JOHN RYAN: You should be able to check whether that is a reasonable description of the state of retail trading in the Liverpool council area.

Mr McCULLY: I can certainly do that and advise you of that, yes.

The Hon. JOHN RYAN: You can take that on notice. One of the other areas of concern was that the outlet was not going to be located sufficiently close to public transport. Can you comment on whether the public transport arrangements to and from the factory outlets centre were adequate or could have been improved or what means the council could have undertaken to improve them?

Mr McCULLY: I do not know that many people come to and from those sorts of uses by public transport anyway. That is why there is such a very large car park. The car park capacity there is well in excess of what you normally require for retail development. That is why the larger shopping centres have large capacity car parks—because the majority of people come and go by motor vehicle.

The Hon. JOHN RYAN: Does that suggest that those aspects of retail centre policy relating to maximising public transport use are pointless?

Mr McCULLY: No, not at all. I would think having large-scale public transport between centres is a very good thing to have, just in terms of the environmental argument. It would not be possible to create all retail and other business establishments around public transport nodes, just physically would not be possible.

The Hon. JOHN RYAN: What do you think are the best reasons for supporting the factory outlets centre continuing to trade?

Mr McCULLY: Social and economic. The fact it is there, it does exist, there are hundreds of people employed there in an area of high unemployment and they are semi-skilled jobs.

The Hon. JOHN RYAN: It has been put to us that social and economic concerns are not relevant to planning concerns.

Mr McCULLY: I disagree. If it is a straight development application the Act is very prescriptive and gives you the matters you should consider. If you are doing a local environmental plan, that is, you are changing the land use, then social and economic matters are matters that you can legitimately consider.

The Hon. JOHN RYAN: Do you think they need to be considered in this matter and should have been?

Mr McCULLY: I think they should have been and I think they were.

The Hon. JOHN RYAN: Have you seen the section 69 report that was prepared for the Department of Planning?

Mr McCULLY: I have.

The Hon. JOHN RYAN: Would you make any comment about its rigour? Do you think it was not rigorous?

Mr McCULLY: I thought it was quite a good report.

The Hon. JOHN RYAN: Have you seen many section 69 reports of that nature?

Mr McCULLY: I have not seen a lot. I have probably seen a dozen maybe. Those reports do not normally come into the public arena. It was a good planning report.

The Hon. JOHN RYAN: How would you make your judgement as to whether it was a good planning report or not?

Mr McCULLY: I have read the report and I thought it was a good planning report.

The Hon. JOHN RYAN: Could you think of any way it could have been made more rigorous?

Mr McCULLY: Emphasis could have been placed on other things. At the end of the day the emphasis of the planners came down to these social and economic reasons, not the physical town planning reasons that other reports could come down on in terms of aesthetics, building types and sizes, those sorts of things that could have been considered.

The Hon. JOHN RYAN: One of the areas that has been criticised has been the level of information available on the trading statistics. Can you think of any way in which those statistics could have been made more rigorous?

Mr McCULLY: They were after the council sent the report to the department and already at that stage it had two consultants go over it. The department rang and asked me would I authorise at the council's expense a slight additional amount of work to add to the rigour of the economics.

The Hon. JOHN RYAN: When the council made an application for amendment to its local environment plan, did anybody from the council contact the Department of Infrastructure and Planning and seek advice from it as to whether or not there would be support for such a proposal prior to putting it to the administrator?

Mr McCULLY: I understand there had been ongoing discussions about both the AMP and the direct factory outlet. The council planning staff had informed me that there was support at least for the Orange Grove one. The other one the department was of a view to review the whole position of these sorts of emerging retail trends.

The Hon. JOHN RYAN: Was there good reason to separate those two proposals?

Mr McCULLY: I think there was very good reason in that one existed and had to live within the reality of what was there and how at that time. The other one was merely a proposal at the planning stage and had a lot further to go.

The Hon. JOHN RYAN: Do you think there would be planning chaos in Liverpool if the designer factory outlet was unable to remain open?

Mr McCULLY: No.

The Hon. JOHN RYAN: What is your perception of how the public has reacted to the designer factory outlet?

Mr McCULLY: There are a lot of people and a lot of cars down there regularly.

The Hon. JOHN RYAN: Do you think it is a successful addition to Liverpool?

Mr McCULLY: It certainly seems to be.

The Hon. JOHN RYAN: Do you think there is any validity to the argument that it captures retail economic activity that would otherwise leave the area of Liverpool?

Mr McCULLY: There is good and cogent argument put by those who have expertise in the field to say that is the case.

The Hon. JOHN RYAN: Was Liverpool council at any time contacted by the Premier's Department seeking information about the designer factory outlet proposal at Orange Grove or, for that matter, at Crossroads? If so, what information was sought and, if possible, could you give some indication as to when that information was sought?

Mr McCULLY: I am unaware that the Premier's Department contacted council at all for any information. I would expect if any other staff member had had that contact they would have told me.

The Hon. JOHN RYAN: So you are unaware of any contact?

Mr McCULLY: No. We were after information by the Department of Planning for briefings but not by the Premier's Department or the Premier's Office.

The Hon. JOHN RYAN: Was the result of the Minister's decision a surprise to you?

Mr McCULLY: Yes.

The Hon. JOHN RYAN: Why?

Mr McCULLY: In terms of the refusal, I did not see it as being that high on the planning scale, given its existence and its social and economic apparent good to the area, that it would have been refused.

The Hon. JOHN RYAN: Was there any contact from DIPNR about trying to find any means of solving this problem other than amendment to the local environment plan?

Mr McCULLY: No, because I am unaware that there is any other way to overcome it, in a technical planning sense.

The Hon. JOHN RYAN: Did you have any contact with the Department of Planning after the production of the section 69 report in regard to this matter or did the council?

Mr McCULLY: I am not sure of the timing. I certainly had a few telephone calls from the department, most of them prior to the section 69 report, seeking additional information—seeking assurances that the council had undertaken the matter with all sense of probity legally and seeking information that they wanted for a briefing to provide to someone.

The Hon. JOHN RYAN: Do you know the architect Frank Mosca?

Mr McCULLY: Yes, I do.

The Hon. JOHN RYAN: Do you think he has an inappropriate relationship with any of the council officers?

Mr McCULLY: Not that I am aware of. He does—and I have certainly known other people like him—enthusiastically pursue his clients' applications.

The Hon. JOHN RYAN: Do you think that is all it is?

Mr McCULLY: That is certainly all I have seen. I have had a number of discussions with him. He enthusiastically represents his clients. That is what he is paid to do.

Ms SYLVIA HALE: But you have seen no evidence of any untoward behaviour on his part.

Mr McCULLY: No.

Ms SYLVIA HALE: Mr McCully, in your experience it would be unusual for a council to forward a draft LEP to the department for approval if there was any real expectation that that rezoning was going to be refused.

Mr McCULLY: No, there are plenty of bloody-minded councils out there that would put it up on the basis that politically they thought they may or may not get it through.

Ms SYLVIA HALE: But usually there is some consistent real discussion within the department so that when councils proceed with LEPs that they think will be refused they do it in the full knowledge that they are likely to be refused.

Mr McCULLY: Yes.

Ms SYLVIA HALE: Just to take the department on or to make a point.

Mr McCULLY: Yes.

Ms SYLVIA HALE: In this case was there any indication that this LEP was to be refused?

Mr McCULLY: No.

Ms SYLVIA HALE: So it came as a complete surprise.

Mr McCULLY: Yes.

Ms SYLVIA HALE: You would think, on the basis of your extensive experience, that it was somewhat unusual for this LEP to have been refused.

Mr McCULLY: Not in that at the end of the day it is always the Minister's call as to what is the most appropriate action to take.

Ms SYLVIA HALE: Given that the Minister has the final say. Were you surprised that the Minister chose in this instance to refuse it?

Mr McCULLY: Yes.

Ms SYLVIA HALE: Turning to a few other matters that have been raised, in your experience, prior to a final decision being made is it usual to allow an applicant to have access to the proposed conditions of consent?

Mr McCULLY: No, it is not. If there are some negotiations to take place it is not unusual to discuss those with them. It can alleviate lots of time in court, which can be very expensive.

Ms SYLVIA HALE: Indeed, it was going to be publicly decided by the elected council so presumably the officer's report on the development application and the proposed conditions of consent would be publicly available for a number of days prior to the decision being made.

Mr McCULLY: Correct.

Ms SYLVIA HALE: That is common practice amongst councils.

Mr McCULLY: Yes.

Ms SYLVIA HALE: So the suggestions about showing Mr Mosca the proposed conditions of consent prior to the approval being given—whether that was done under delegated authority or by the elected council—are totally unfounded.

Mr McCULLY: I would not find it unusual to have that happen.

Ms SYLVIA HALE: You said that Councillor Beuk was the champion of planning. To your knowledge did he have any involvement with the rezoning process?

Mr McCULLY: Not that I know of. It would have been run by him I am sure but I am unaware that there was any involvement. I probably would have had more involvement by questioning the planning staff about why they were recommending it, why they were writing the report and the reasons therein.

Ms SYLVIA HALE: So the actual preparation of the plan requires a considerable amount of technical expertise on the part of the staff who are skilled in doing these things.

Mr McCULLY: Yes.

Ms SYLVIA HALE: As I understand it, the council proposed to prepare a draft LEP at the end of 2003.

Mr McCULLY: Correct.

Ms SYLVIA HALE: And the final decision for the council to adopt a draft and send it to the Minister was not made prior to the council being dismissed.

Mr McCULLY: That is correct.

Ms SYLVIA HALE: So the proposal would then have come before the administrator, who was acting as the council.

Mr McCULLY: Yes.

Ms SYLVIA HALE: Would you agree that Ms Kibble is uncommonly well qualified in these matters?

Mr McCULLY: Yes.

Ms SYLVIA HALE: Do you feel that she was preoccupied with other things and paid no attention to it or was she well aware of what the proposal was?

Mr McCULLY: No, she paid attention to it in some considerable detail in that she also separated the two proposals and recommended one and referred the other.

Ms SYLVIA HALE: So in her role acting as the elected council—in that capacity—and given her professional background and experience in the area of planning, she exercised considerable scrutiny over the process and was involved in it. So the final proposal that went to the department and to the Minister did so with her full knowledge and support.

Mr McCULLY: Yes.

Ms SYLVIA HALE: Do you agree that, the elected council having been dismissed and none of those former councillors having had any role in the preparation of the LEP, Ms Kibble having had a considerable planning background and knowledge and Ms Kibble—and presumably you—being aware of the malodour that surrounded the activities of the former Liverpool council, there was really very little basis for anyone to assume that approval of the LEP would be in any way improper or subject to corrupt influences.

Mr McCULLY: I need to correct the first part of your question. The councillors did initiate the LEP; only the elected council can initiate an LEP.

Ms SYLVIA HALE: But at that stage was it just a proposal rather than a detailed examination of it? I am not sure.

Mr McCULLY: The proposal by AMP was certainly quite detailed and the Orange Grove proposal was tacked onto it. By the time Ms Kibble came she was caught in a situation where the AMP proposal was just a planning proposal whereas the Orange Grove one was a development that existed and was in operation and we understood that certain people had made decisions to put their businesses there and had employed a lot of people.

Ms SYLVIA HALE: Knowing Ms Kibble's qualifications and knowing that you had come to a council that was under a cloud and there would be great public scrutiny of all the activities of the council, everyone would have been at pains to make sure that the proposed LEP was an appropriate proposal to go to the department.

Mr McCULLY: Yes.

Ms SYLVIA HALE: This is my final question. You said that spot rezonings are not uncommon. From your knowledge, what percentage of spot rezonings—as opposed to major LEPs—would you expect to be approved by the Minister?

Mr McCULLY: Not many, because it is not a very good planning principle to follow to correct things after you have made a mistake.

Ms SYLVIA HALE: I am not talking about retrospective rezonings.

The Hon. JAN BURNSWOODS: What are you talking about that relates to the inquiry's terms of reference?

Ms SYLVIA HALE: I am talking about where you have a major LEP and you decide that one specific site will be rezoned for a particular activity and you have to draw up an LEP relating to that specific site that still has to go off to the Minister. What percentage of those sorts of localised LEPs are usually approved by the Minister?

Mr McCULLY: I have never started many of them in the first place so I really cannot answer that.

Ms SYLVIA HALE: Thank you.

The Hon. PETER PRIMROSE: Following the theme of the honourable member and given the various questions that have been put, in your view Liverpool council has been a well-run, capable and efficient council.

Ms SYLVIA HALE: Are you talking about currently or prior to its dismissal, because they are surely two very different animals?

The Hon. KAYEE GRIFFIN: I am sure that the general manager could ask that question if he needed to.

Mr McCULLY: All I can say, Madam Chair, is that there is a 500-page report by Professor Daly that outlines what he considers the running of Liverpool council to be.

The Hon. PETER PRIMROSE: Thank you.

CHAIR: There being no further questions, I thank you, Mr McCully, for your attendance today and for your forbearance in relation to the timetable of today's hearing.

Mr McCULLY: Thank you.

(The witness withdrew)

The Hon. JAN BURNSWOODS: Madam Chair, before we call the next witnesses, I have a point of clarification. I think we were told before that Ms Bennett needs to leave at 6.00 p.m. Given what happened with the previous witness, who was here for much longer than the time allocated, could you tell us what our finishing time will be and what the breakdown of questions will be?

The Hon. JOHN RYAN: Can I make a suggestion?

The Hon. JAN BURNSWOODS: Mr Ryan, as usual I ask the Chair a question and you appear to think you are the Chair. I would like to get an answer from the Chair. I think it is reasonable information for the witnesses and for us.

The Hon. JOHN RYAN: Do you know the meaning of the word "patronising"?

The Hon. JAN BURNSWOODS: Yes, I do.

The Hon. PETER PRIMROSE: It is in the dictionary next to your name, I think, John.

CHAIR: It is true that we had advice that Ms Bennett has to leave and I would certainly be appreciative if I could leave at least by then as well.

The Hon. JAN BURNSWOODS: By 6.00 p.m.?

CHAIR: Yes, at the latest.

The Hon. JAN BURNSWOODS: The second part of my question related to the allocation of questions. Could you tell us your plans in relation to that?

CHAIR: Again it would be a one third-one third split.

The Hon. JOHN RYAN: Madam Chair, can I make a suggestion?

The Hon. JAN BURNSWOODS: Madam Chair, I did not hear what you said.

Ms SYLVIA HALE: Can we hear Mr Ryan's suggestion because that may affect the Chair's answer?

The Hon. JAN BURNSWOODS: Can I hear the Chair's answer first? I literally did not hear what she said.

CHAIR: Order! I am happy to hear various Committee members' suggestions. I call Mr Ryan.

The Hon. JOHN RYAN: You can answer Ms Burnswoods's question first.

CHAIR: As usual we will split the time one third, one third and one third, which will mean blocks of 15 minutes.

The Hon. JAN BURNSWOODS: Thank you.

The Hon. JOHN RYAN: There are two sets of matters that we need to look at with regard to these two witnesses, one of which is a reasonably quick issue—

The Hon. JAN BURNSWOODS: I see the Chair is at it again.

CHAIR: Mr Ryan is speaking to the point of order.

The Hon. JAN BURNSWOODS: What point of order? There is no point of order.

CHAIR: The question.

Ms SYLVIA HALE: You asked some questions; surely other members of the Committee are entitled to ask questions too.

The Hon. JOHN RYAN: Some members think they are the only people who have the right to speak.

The Hon. JAN BURNSWOODS: I did not take a point of order; I asked two questions and the Chair has answered both of them.

CHAIR: I am quite happy to hear from other members of the Committee.

The Hon. JOHN RYAN: I am going to ask a question of the Chair.

The Hon. JAN BURNSWOODS: You were not asking a question; you started making a statement about what you think we are doing here.

Ms SYLVIA HALE: Goodness me, you waste time!

CHAIR: Mr Ryan, you have a point to make?

The Hon. JOHN RYAN: We have two sets of issues for the witnesses we are about to call before us. One relates to the production of a press release, which I think we can deal with reasonably quickly, and it involves Ms Bennett. However, the other set of issues relates to the preparation of a memorandum and other things relating to the consideration of the section 69 report. It has been a long day for the Committee and I know that it has been difficult for the two witnesses, who have waited around all day. I suggest that we deal this afternoon only with a series of brief questions relating to the newspaper report—the production of the press release—and then we invite Ms Spizzo to return when we meet on Wednesday and deal with the other issues then.

The Hon. JOHN RYAN: I must say for my own part, given the amount of time we have been working and the complexity of the issues, that I am sure with a fresh mind I would do it infinitely better and quicker later. If Ms. Spizzo would give us that courtesy I would be grateful.

The Hon. JAN BURNSWOODS: This committee had a deliberative meeting and made a number of decisions, the first of which was that these two witnesses would appear this afternoon partly because they have been here most of the day. It was noted, as I said, that Ms. Bennett has to go at 6.00 p.m. It is now outrageous that the Hon. John Ryan would try to countermand a decision made in a deliberative meeting of this committee.

(Short adjournment)

ISABELLE MARGARET BENNETT, Media Liaison officer, 22 Suffolk Street, Paddington sworn and examined:

CHAIR: In what capacity do you appear before the committee today?

Ms BENNETT: As the media liaison officer of the Department of Infrastructure, Planning and Natural Resources.

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

Ms BENNETT: No.

CHAIR: Would you familiarise yourself with them?

Ms BENNETT: Yes.

CHAIR: Have you had time to look at them?

Ms BENNETT: 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 to the committee and we will be happy to consider your request. Do you want to make a short statement?

Ms BENNETT: Yes. I understand that the committee wants to hear about the protocol for preparing draft news releases. The protocol I am about to outline to you has been in place for many years. Basically this is what happens. The planner responsible for assessing the draft local environmental plan or, indeed, any proposal before the department for assessment, requests the media unit to prepare a draft news release that reflects the recommendation in its report to the Minister. The planner supplies an outline, probably dot points, of the gist of the release and sometimes a copy of the department's submission to the Minister which is a longer and more detailed document, though apparently not in the case of Orange Grove, they were just dot points.

The draft is written and sent to the planner for factual vetting to make sure that the media person has not got details wrong. When the planner and the media officer have agreed on the content and wording of the draft release which is usually a fairly swift process, the finalised draft is sent back to the planner and attached as a hard copy to the file. The file, with the draft news release, is then sent to the director general for sign off before going to the Minister. It should be noted that the draft release has no official status. It represents a recommendation from the media unit on how an announcement might be formulated.

The Hon. JOHN RYAN: In this case who asked you to prepare this media release?

Ms BENNETT: Laurel Cheetham.

The Hon. JOHN RYAN: One of the items in the media release relates to 400 jobs. How did you come upon the use of the number 400?

Ms BENNETT: I was rather busy so I passed the request on to a casual person that we were employing at the time to help us out and she did the draft and sent it to Laurel Cheetham for her approval. I can remember Ms. Cheetham saying that she did not like the headline. I think there were one or two other things to be adjusted. It had not made sufficiently clear that the approval of this LEP would be to enable council to consider the DA so that was duly clarified. The headline was changed to make that clear. To be perfectly honest I do not recollect the number of jobs in the draft but I would be prepared to say that the person who wrote the draft would have stuck to the number of jobs mentioned in the briefing notes, the dot points that she had received.

The Hon. JOHN RYAN: One of the last lines of the press release relates to the fact that people would not have to go outside the area in order to shop at a factory outlet. Do you recall that line of the media release?

Ms BENNETT: No, I am sorry I do not and I do not recall the substance of the dot points either off the top of my head.

The Hon. JOHN RYAN: Generally you have said that the factual content of the press release comes to you from the planner?

Ms BENNETT: Yes.

The Hon. JOHN RYAN: In this case Ms. Cheetham.

Ms BENNETT: Yes.

The Hon. JOHN RYAN: There was a memo that said something in the order of "I have just stuck to making it factual". Are there circumstances in which those releases would not be factual?

Ms BENNETT: I think that she is probably referring to occasionally one might put a positive statement in the Minister's mouth such as "This is great news for X Y Z suburb" and she probably had not done anything like that. I think that is what she means.

The Hon. JOHN RYAN: And that is noticeable in the release, that is true. I did not notice similar documentation relating to the eventual release. Was the Minister's release of 11 July headed "Government moves to support the Liverpool CBD" prepared by the department or the Minister?

Ms BENNETT: It was not prepared by the department.

The Hon. JOHN RYAN: All of that release was prepared in the Minister's office?

Ms BENNETT: It was.

The Hon. JOHN RYAN: Based on the documentation obviously that had been supplied to it?

Ms BENNETT: I do not know on which documentation the Minister's office used for its release.

The Hon. JOHN RYAN: It is a standard procedure for a media release to be prepared for just about every decision of this nature?

Ms BENNETT: It is a very standard procedure and there are lots of media releases. They are prepared in advance because obviously if we waited until the last minute it would not be a very well organised procedure.

Ms SYLVIA HALE: The fact that this was handed to a casual to produce indicates there was no particular importance attached to it. It was a fairly run of the mill rezoning?

Ms BENNETT: I think we just had a lot of work that day. We get a lot of media releases that are written about local environmental plans.

Ms SYLVIA HALE: There was nothing about this LEP that would cause anyone to say "We need to be very careful in the way this is crafted. This needs to be done by a permanent employee of the department"?

Ms BENNETT: I think that the thinking was that this is not a difficult complicated piece of information to be handled.

Ms SYLVIA HALE: So it was one that could be done by a casual employee of the department?

Ms BENNETT: By a temporary person.

Ms SYLVIA HALE: In that sense it was a fairly run of the mill LEP?

Ms BENNETT: Yes, but when the draft was revised it came back to me to have a look at so that I could be sure that the heading in the first paragraph really reflected what the planner wanted to say.

Ms SYLVIA HALE: And you did make those modifications?

Ms BENNETT: Yes.

Ms SYLVIA HALE: But that would be quite a usual process, would it not?

Ms BENNETT: Oh yes. There was nothing unusual about the process of preparation.

Ms SYLVIA HALE: You just knock it into final shape. It is normally issued and then forgotten about?

Ms BENNETT: I beg your pardon?

Ms SYLVIA HALE: Normally the press release would be issued and everyone would forget about it—sorry, I will withdraw that question.

Ms BENNETT: Well, our involvement ends when the media release—when the draft news release is attached to the file and goes to the director-general for sign off.

The Hon. KAYEE GRIFFIN: I think you did say in your statement that it is the standard practice for draft releases to be prepared for a file that is presented to the Minister's office, is that correct?

Ms BENNETT: Yes. The department has a lot of projects in front of it for assessment and determination and most of them have a draft release prepared as a possible announcement for the Minister, should he or she wish to make an announcement.

The Hon. KAYEE GRIFFIN: So the press release or the draft is there, and what happens to the draft is really dependent upon whatever decision is made at a later stage?

Ms BENNETT: Yes.

The Hon. KAYEE GRIFFIN: In terms of the input into the draft press release, I think you said that when you receive it, or the media area receives it, there are dot points that the planner gives you?

Ms BENNETT: The planner sends usually emails. They probably look like this (indicated)—a whole stack of dot points of things they want mentioned. If it is very complicated, they might send the submission to the Minister as well so that we can look at the background and that is used as the basis for writing the release. It happens lots—

The Hon. KAYEE GRIFFIN: The draft release is written and the planner again looks at it before the draft is finalised?

Ms BENNETT: Yes, we send it back to the planner because, you must realise, that people like me are not planners and we would want to make sure that we have got the announcement correct, factually correct. The planner and the media officer agree that this is how it should be and the finalised draft is then attached to the file.

The Hon. KAYEE GRIFFIN: And the press release is actually written giving the recommendation of the planner?

Ms BENNETT: It reflects the recommendation from the department to the Minister about what the determination of a proposal should be.

The Hon. KAYEE GRIFFIN: And then, depending on whatever the Minister's decision is, that is dependent upon whether the draft press release actually becomes a form of release from the department and the Minister?

Ms BENNETT: It is up to the Minister as to what happens after that.

The Hon. KAYEE GRIFFIN: In terms of the work that is done by the media section, how many staff do you have?

Ms BENNETT: We have a total of six staff.

The Hon. KAYEE GRIFFIN: And you said you have a casual person as well?

Ms BENNETT: Yes. She has now left. We have a total of four full-time people and two part-time people who actually share a job, so I suppose the actual total is five.

The Hon. KAYEE GRIFFIN: Apart from press releases that relate to LEPs or things that go as part of a recommendation to the Minister, what other things is the media section involved with?

Ms BENNETT: We do media monitoring to ensure that the department is well informed about the news of the day and events and issues that are of interest to it. We get the suite of newspapers. We receive news logs from monitoring companies like Reham and media monitors. We receive a selection of news clippings from around New South Wales and these are duly reviewed and culled. We also deal with the media when they ring up and ask questions and want information about the department's activities or issues in front of it. Those are basically the main areas—monitoring, preparing announcements and looking after the media.

The Hon. KAYEE GRIFFIN: In terms of when this press release had to be done, what is the sort of time frame from when you actually receive something from a planner, a draft is made, it goes back to the planner and then comes back?

Ms BENNETT: It depends on how urgent the matter is and how busy we are. I fairly well recall that with Orange Grove, the period between receiving the dot points and agreeing on a finalised draft was probably a couple of days. I do not think it would be more than that, not having the schedule in front of me, but it can be faster. If it is an urgent matter it can be written, returned to the planner, the text agreed and off on the file within a matter of a couple of hours, if it is urgent.

The Hon. KAYEE GRIFFIN: Once the final draft is done, does it go back to the planner?

Ms BENNETT: It goes back to the planner, who prints it off and attaches a hard copy to the file, which is then sent on to the director-general for her to look at and sign off.

(The witness withdrew)

(The Committee adjourned at 5.43 p.m.)