

REPORT OF PROCEEDINGS BEFORE

GENERAL PURPOSE STANDING COMMITTEE NO. 4

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

At Sydney on Monday 20 September 2004

The Committee met at 10.00 a.m.

PRESENT

The Hon. J. A. Gardiner (Chair)

The Hon. J. C. Burnswoods

The Hon. A. R. Fazio

Ms S. P. Hale

The Hon. D. E. Oldfield

The Hon. P. T. Primrose

The Hon. J. F. Ryan

STEPHEN CLEMENT DRISCOLL, Town Planner and formerly Regional Planning Co-ordinator for Western Sydney, Parramatta, on former affirmation re-examined:

CHAIR: I declare the hearing open. Welcome to the tenth public hearing of the General Purpose Standing Committee No. 4 inquiry into the approval process for the Designer Outlets Centre at Orange Grove Road, Liverpool. During earlier hearings I made extensive comments on a number of procedural issues. I will make reference to these statements if the need arises during today's hearing. The protection afforded to committee witnesses under parliamentary privilege should not be abused during these hearings. I remind witnesses to ensure the matters raised are directly relevant to the terms of reference. It is important to remember that parliamentary privilege does not apply to what witnesses may say outside of the committee hearing. Therefore, I urge witnesses to be cautious about their comments to the media and others after they complete their evidence, even if it is said within the confines of this building. Such comments would not be protected if, for example, another person decided to take an action for defamation.

I also ask honourable members in their questioning to avoid the use of questions that have the purpose of making an adverse statement against the witness rather than obtaining information. One of the witnesses this morning is Mr Sam Bargshoon, who has been widely reported as standing as a candidate for a Federal seat in south-west Sydney. Both committee members and the witness need to be aware that Mr Bargshoon is here to answer questions on the approval process for the Designer Outlet Centre, and should not divert to wider issues relating to the Federal election campaign.

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 on 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, honourable 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 phones during the hearing.

Mr Driscoll, your previous oath or affirmation is relevant for today's hearing; we do not need to swear you in again.

The Hon. JOHN RYAN: Mr Driscoll, you have been present on the other occasions on which the Department for Infrastructure, Planning and Natural Resources has given evidence to this Committee. Do you feel there is any other material that the Committee should have seen that it has not seen to date?

Mr DRISCOLL: To my knowledge, all the relevant material is on file or has been produced by the department.

The Hon. JOHN RYAN: Are you aware of any documents that the Committee should have that it does not?

MR DRISCOLL: Not to my knowledge, no.

The Hon. JOHN RYAN: Are you aware of the destruction of any documents?

MR DRISCOLL: No.

The Hon. JOHN RYAN: Did you attend the director-general's regular meetings with Ms Beamer?

MR DRISCOLL: No, I did not.

The Hon. JOHN RYAN: Are you aware of the fact that your name appears on an action item on about 14 April 2004, which indicates that a briefing was given to the Minister at Governor Macquarie Tower? It includes an action item:

Steve Driscoll to expedite processing of LEP for Orange Grove for gazettal before 28/4/04.

It contains a further comment:

Agreed should split LEP if possible and expedite handling of Orange Grove with a view to gazettal before 28/4.

Are you aware of the reference to you at that meeting and were you given those instructions?

MR DRISCOLL: There was a stay on closure orders late in April. I was aware of when those orders were to conclude and we were certainly working towards trying to finalise the presentation of the section 69 report to the Minister ahead of those stay orders. In the general context, yes, I was aware of the requirement to try to finalise the plans as quickly as possible, but not specifically of those notes you have read.

The Hon. JOHN RYAN: The Committee needs a more accurate idea of where you were in this situation. You were not in day-to-day contact with Mr Prattley, were you?

MR DRISCOLL: Mr Prattley was my direct report, but I was certainly not in daily contact with him and certainly not on this matter.

The Hon. JOHN RYAN: Would you have been in daily contact with Mr Birds or Ms Cheetham during that period?

MR DRISCOLL: Insofar as I was in the same office, yes. However, I was not in daily contact with them on this matter.

The Hon. JOHN RYAN: In terms of the process, you would be more aware of what they were doing than perhaps what was going on in the Minister's office or with Mr Prattley. Would that be fair to say?

MR DRISCOLL: Insofar as they were people in my office, yes.

The Hon. JOHN RYAN: What was the reason for trying to get the local environment plan [LEP] arranged for gazettal before 28 April?

MR DRISCOLL: As I understood it, 28 April was the day that the stay orders ceased. So it was desirable to present the plan to the Minister for consideration prior to that time.

The Hon. JOHN RYAN: Was there someone instructing you that that was appropriate or were you directing that action?

MR DRISCOLL: Mr Birds and Ms Cheetham were looking after the draft plan and we were working towards trying to present the plan to the Minister prior to that time.

The Hon. JOHN RYAN: Were they being instructed by anyone more senior to do that or was that just an objective they had in mind because they knew it would be an important time line?

MR DRISCOLL: I am not aware of anyone instructing them on that line. We were generally collectively working towards that time line.

The Hon. JOHN RYAN: Would that have been an objective shared by Mr Prattley?

MR DRISCOLL: I am not sure.

The Hon. JOHN RYAN: Were you aware of whether that also seemed to be the Minister's attitude?

MR DRISCOLL: I have no idea of what the Minister's attitude was.

The Hon. JOHN RYAN: I get the impression from some of the documentation that there was a sort of facilitating attitude towards this project prior to this deadline in April. Would it be fair to say that the people you know seemed to be working, first, towards getting it finalised in time, for want of a better word, to save the jobs and, secondly, that there was a general understanding that the section 69 report was likely to be favourable and there did not appear to be any knowledge of objection higher up the chain, so there was a view that this was something that should be facilitated reasonably quickly? Is that fair summary of what was happening?

MR DRISCOLL: I would agree with the first part of that statement. Yes, we were generally trying to finalise the matter inside that timeframe. With respect to whether or not the finalisation would lead to a recommendation on the section 69 report to approve the development, I must say that at that stage I had no idea what Mr Birds or Ms Cheetham would be recommending.

The Hon. JOHN RYAN: Do you recall a message, which looks to have been passed on to some other officers as well, from you to Ms Cheetham dated about 20 April? It includes the message about some briefings arising from the meeting the previous week between Bob Carr and Frank Lowe. There has been some discussion of that memo before for another reason.

MR DRISCOLL: Yes.

The Hon. JOHN RYAN: I direct your attention to message I sent from David Birds. The last section states:

As we discussed, Laurel, it will be important to keep the PC—

which I presume is the Parliamentary Counsel—

officer and the two Phils at Council primed to respond quickly to any requests so the s69 can be finished off by the end of Tuesday - Laurel, obviously you'll need the PC opinion, HillPDA report (and Peter Hamilton's endorsement of it) before it can go to the Minister's office - clearly Michael Meagher will be waiting for it.

I suggest you keep HillPDA primed to copy the report straight to you & Peter H—

I presume that is Peter Hamilton—

& get the PC opinion sent directly to you asap, and also to brief Michael M—

I presume that is Michael Meagher—

to expect a report on Weds.

Legal also need to be primed to set up immediate gazettal.

Please call me if you need to discuss – my nos. were on my previous e-mail.

Regards

David Birds

Do you remember seeing that email circulated to you?

Mr DRISCOLL: No, I do not remember seeing that email. Was I copied it?

The Hon. JOHN RYAN: You have got it at the end of an email. It has obviously been copied to you and you have sent a message to Ms Cheetham—

Mr DRISCOLL: Arising from that email?

The Hon. JOHN RYAN: Yes. That email describes a situation in which there seemed to be some urgency to have this matter finalised. One imagines that all the critical points have been alerted that something is going to happen, the Minister's office is involved and it says, "Will need to brief Michael Meagher, who is expecting a report on Wednesday". It appears there was a level of urgency that all the critical points of the

department facilitated on, first, a positive outcome from the section 69 report and gazettal. Does that seem a fair assumption to you of what that email was expressing?

Mr DRISCOLL: I think we were within one week of when the stay orders may have been due to conclude. So, yes, Mr Birds and Mrs Cheetham were working towards trying to finalise everything within that one remaining week.

The Hon. JOHN RYAN: Do you think there was an expectation by the Minister's office that that was coming too? It appears from this email that the Minister's office has been primed to expect something.

Mr DRISCOLL: I am not aware whether or not Mr Birds or Mrs Cheetham may have alerted the Minister's office to the fact that they were trying to conclude the section 69 report for the plan. I am not sure whether or not anyone else was copied on that email apart from me.

The Hon. JOHN RYAN: There is no reference to the director-general amongst all of those people being primed to respond, is there?

Mr DRISCOLL: No, from what you have read me, there was not.

The Hon. JOHN RYAN: Does that seem unusual to you?

Mr DRISCOLL: The LEP would have been considered to be of a strategic nature. So Mr Prattley and the director-general would have been required to see the section 69 on the way through.

The Hon. JOHN RYAN: Gary Prattley would have looked after, I suppose, whatever the director-general was doing. Would that be right?

Mr DRISCOLL: The protocol that was established required the director-general to see the section 69 report as well as Mr Prattley.

The Hon. JOHN RYAN: This all appears to be working towards a gazettal, though, does it not? The word is actually used: "Legal need to be primed to set up an immediate gazettal".

Mr DRISCOLL: It does say that, yes.

The Hon. JOHN RYAN: I must say that after that the language being used about this proposal is a great deal more objective. Obviously, the legal proceedings allowed a further stay, and I can understand that there would be less urgency as a result of that. Many Committee members have looked at this correspondence. There appears to be a positive attitude, an urgent expectation of a gazettal and then that all drops off after that period, particularly from early June on to the beginning of July. Did you detect a change of attitude about this proposal after that court deadline passed?

Mr DRISCOLL: The only change that I detected related to the officers having more time to deal with the preparation of the section 69 report. At that stage, as I recall, we were also receiving correspondence from various parties still making submissions about the draft LEP generally. Those matters were being considered at the same time as well. I would not necessarily characterise it as a change in attitude; I would just say that further time was available to the officers in order to make their assessments and complete their documentation.

The Hon. JOHN RYAN: Were you in much contact with Mr Meagher from the Minister's office during this process?

Mr DRISCOLL: Mr Meagher spoke to me on one or two occasions but, as I recall, not specifically about this particular application. There were a number of things that the office was dealing with at the time. So I spoke to Mr Meagher about a range of things.

The Hon. JOHN RYAN: Do you recall about 20 April sending Mr Meagher an email which reads, "As requested, attached is the briefing that was prepared last Friday for the Premier's Meeting with Westfield"? The second paragraph reads, "We look like we might be able to get the LEP into town tomorrow (late) for

Ministerial consideration, however, the limiting factor on that will be the legal review that has been requested by Premier's. We will keep you appraised as things unfold."

The Hon. JOHN RYAN: Why would you keeping Mr Meagher "appraised" at that time?

Mr DRISCOLL: The reference to keeping him appraised would have been a reference to keeping him appraised as to the timing, whether or not we were able to make that timing that I indicated in the email.

The Hon. JOHN RYAN: So you were you aware that Mr Meagher might have been expecting this information from you or do you think it was a surprise to him that you were all working hard to get finished by that date?

Mr DRISCOLL: No, I think Mr Meagher knew that we were working towards trying to finalise the assessment prior to the stay orders concluding.

The Hon. JOHN RYAN: What did you mean by "the limiting factor on that will be the legal review that has been requested by Premier's"?

Mr DRISCOLL: Mr Prattley indicated to me that there had been a request for our legal branch to review the section 69 report, and that is the reference that I make in that email.

The Hon. JOHN RYAN: To review it in what way?

Mr DRISCOLL: There had been, both to Liverpool council during the exhibition and subsequent to the exhibition, submissions made concerning the process that the draft plan had followed in terms of its preparation and exhibition. Subsequent to the administrator resolving to send the department the Orange Grove portion of the plan further correspondence had been received by the department from various parties speaking of those alleged irregularities.

The Hon. JOHN RYAN: These are complaints from the Crossroads proponents?

Mr DRISCOLL: As I recall the Crossroads proponents were making submissions. Westfield's may have also. My memory is not too good on that, I am afraid.

The Hon. JOHN RYAN: You have linked this to a request by Premier's. Were you aware of Premier's Department requesting a legal review?

Mr DRISCOLL: Mr Prattley indicated to me that he had spoken to someone in Premier's and they had suggested that it would be appropriate for our legal branch to review the plan.

The Hon. JOHN RYAN: Was there any chance that this legal review had been requested as a result of the meeting that had taken place between Mr Wedderburn and representatives of Westfield?

Mr DRISCOLL: I do not know.

The Hon. JOHN RYAN: I draw your attention to a couple of letters which you sent during the process of this consideration. They are different in only one important respect. They are both to a person called Harshane Kahagalle. Who is that person?

Mr DRISCOLL: I understand that he was a lawyer acting on behalf of Mr Mosca or perhaps Mr Gazal. I am not too sure.

The Hon. JOHN RYAN: Do you remember why you were writing to them?

Mr DRISCOLL: They requested letters to advise where the department's assessment was up to in relation to the section 69 report to assist with applications for stay orders. At least, that is my understanding of what the letters were for.

The Hon. JOHN RYAN: You sent one on 21 April. So essentially they were asking for a progress report. Then you said in that letter of 21 April:

I refer to our telephone conversation this afternoon.

I wish to advise that the Department is working towards a timeframe which would see a section 69 report furnished for the Minister's consideration early in the week beginning 27 April, 2004.

Yours faithfully,

Stephen Driscoll

Do you recall the telephone conversation prior to you sending this information to Mr Kahagalle?

Mr DRISCOLL: I have a general recollection, yes.

The Hon. JOHN RYAN: Can you report to the Committee what was discussed?

Mr DRISCOLL: Yes. He rang me. He advised that the matter was back, I think, in front of the Court of Appeal seeking a stay on orders and asked whether or not the department would be able to provide some general advice as to what the status of the department's assessment was. I said I would speak to the legal branch about that, which I did and drafted the letter, which you read.

The Hon. JOHN RYAN: On 24 June you sent Mr Kahagalle another piece of correspondence, I imagine a gain to update them on progress. You say, "I refer to your facsimile of yesterday. A report under section 69 of the EP&A Act has been completed. A number of issues remain to be resolved." Do you recall that?

Mr DRISCOLL: Yes.

The Hon. JOHN RYAN: Why did you say, "A number of issues need to be resolved."

Mr DRISCOLL: The section 69 report at that point had been completed but had not been, to my knowledge at that point, been considered or endorsed or otherwise by the Minister. It was that point that I wished to convey.

The Hon. JOHN RYAN: In other words, you were wanting to convey that there was some doubt about whether the 69 report would be endorsed by the Minister?

Mr DRISCOLL: I did not know what the Minister's mind was. I wanted Mr Kahagalle to know that the report had been prepared but that it had not yet been finalised—sorry, the Minister's consideration had not been finalised.

The Hon. JOHN RYAN: Were you aware that around that date Ms Westacott had seen the report and was asking questions of Mr Prattley about it?

Mr DRISCOLL: No, I was not aware of that at that time.

The Hon. JOHN RYAN: So, all you were aware of was that the report had been completed. You would have been aware of the report's recommendation, would you not?

Mr DRISCOLL: Yes, although I had not read the section 69 report, but I was aware that it had recommended approval.

The Hon. JOHN RYAN: You were aware that it recommended approval?

Mr DRISCOLL: Yes.

The Hon. JOHN RYAN: So would you not have expected that it would have been approved?

Mr DRISCOLL: The Minister has the final determination of any section 69 report and we are generally very careful always to make that point when anyone is asking about the status of legal matters.

The Hon. JOHN RYAN: Why would you not say that instead of saying, "A number of issues have yet to be resolved." I mean, "A number of issues have yet to be resolved", indicates to me that there is additional documentation required or some questions have been asked that need to be answered. It does not suggest to me like the Minister has yet to make a decision.

Mr DRISCOLL: They were the words that I chose to put in the letter. It was nothing—

The Hon. JOHN RYAN: It was only one issue that needs to be resolved, is it not?

The Hon. DAVID OLDFIELD: No even an issue.

The Hon. JOHN RYAN: Whether or not the Minister will agree to it?

Mr DRISCOLL: The Minister had not yet signed the plan and at that time I wrote the letter I was not exactly aware of where the plan was in terms of collecting the necessary signatures.

The Hon. JOHN RYAN: Were you not just trying to convey to Gazcorp that there was some doubt as to whether the Minister would decide to accept or reject the recommendation of the section 69 report?

Mr DRISCOLL: I did not know what the Minister was going to do. I simply wanted to indicate that, yes, the section 69 report had been prepared.

The Hon. JOHN RYAN: You surely must have been aware that there were deep questions about the outcome of the section 69 report. Mr Prattley had received a memo the day before from Ms Westacott asking exactly that issue. She told him, "I need to resolve a number of issues." Have you seen that memorandum? It almost has the same sentence that you have included in yours.

Mr DRISCOLL: I had not seen the memorandum the director-general sent to Mr Prattley but I was, as I said, wanting to indicate that the matter was not yet finalised.

The Hon. JOHN RYAN: Were you aware that Ms Westacott was asking Mr Prattley some deep and searching questions about the conclusion of the section 69 report by this time?

Mr DRISCOLL: I became aware of that. Whether or not I was aware of that at that particular time, I honestly cannot recall.

The Hon. JOHN RYAN: How did you become aware of that?

Mr DRISCOLL: Mr Prattley spoke to me.

The Hon. JOHN RYAN: At what point?

Mr DRISCOLL: He spoke to me on the number of occasions, probably twice, once to indicate that he had been requested by the director-general to provide further advice and on one other occasion in early July.

The Hon. JOHN RYAN: Were you aware of some questions that had been asked by Justine de Torres about this matter?

Mr DRISCOLL: What questions were they?

The Hon. JOHN RYAN: How she, too, had asked for a number of issues to be resolved. She actually used that same expression in her memorandum.

Mr DRISCOLL: I am not aware of any memorandum which Ms de Torres had sent.

The Hon. JOHN RYAN: It just seems to me that everybody is using that expression. It almost seems like it was a line circulated around the department to be "the line" to anybody from Gazcorp. Had you been instructed to issue that statement in that form?

Mr DRISCOLL: I was not instructed. I was assisted in drafting the letter by people in the legal branch.

The Hon. JOHN RYAN: So the line in that may have come from the legal branch suggesting that you write in those terms?

Mr DRISCOLL: As I said, the letter was partly drafted by me and partly drafted by the legal branch. I was a signatory.

The Hon. JOHN RYAN: Who wrote the last sentence, "A number of issues have yet to be resolved." Is there any chance that Ms de Torres constructed that line?

Mr DRISCOLL: It may have been Ms de Torres or it may have been Mr Ray.

The Hon. JOHN RYAN: So it is not your line?

Mr DRISCOLL: I do not recall that being in the original draft that I submitted, no.

The Hon. JOHN RYAN: What did you submit then in your original draft?

Mr DRISCOLL: I think pretty much the first sentence—

The Hon. JOHN RYAN: Indicating that the section 69 report had been completed?

Mr DRISCOLL: Yes.

The Hon. JOHN RYAN: So someone other than you added the additional sentence, caveat, that "A number of issues remained to be resolved"?

Mr DRISCOLL: My original letter may have had words to the effect that the Minister had not yet determined the plan or the Minister had not yet considered the plan.

The Hon. JOHN RYAN: Can you tell us a little bit more about your conversations with Mr Meagher? Did Mr Meagher ever express to you any views about the Minister's concerns about this project?

Mr DRISCOLL: I was never aware of what the Minister's thoughts were about this particular plan.

The Hon. JOHN RYAN: How did Mr Meagher address you on this matter? Did he say to you, "Look, the Minister is concerned about the jobs" or "We are worried about the jobs" or anything of that sort of nature during their conversations?

Mr DRISCOLL: Mr Meagher's contact with me was generally inquiring as to progress. To my recollection he did not ever express to me a particular view from the Minister on the direction that the plan was taking or the issues that may have been involved.

The Hon. JOHN RYAN: You would be aware that some people from Westfield were making contact with the department around this time too. For example, you received an email from Mr Prattley explaining that he had received some correspondence from Justin Lynch of Westfield and directed it to the people who were doing the section 69 report. Do you remember that?

Mr DRISCOLL: Roughly the time, Mr Ryan?

The Hon. JOHN RYAN: It was some sort of additional report done by Urbost JHD assessing the economic assessments and so on. How did Mr Lynch know that the relevant people in the department to contact were Mr Prattley, Ms Cheetham and Mr Birds?

Mr DRISCOLL: I have no knowledge of how he contacted or who he knew how to contact people.

The Hon. JOHN RYAN: Do you remember writing to Mr Birds and Ms Cheetham saying"

"See attached. Because we are receiving these submissions prior to a section 69 report being finalised, we need to give them material consideration in formulating our advice for the section 69 report.

Can I see you both about the status of the LEP later today some time, please? After 3.00 p.m. works best for me, but that may not suit you ..."

Do you remember that message?

Mr DRISCOLL: Yes.

The Hon. JOHN RYAN: That was very late in April, by which stage the court case had given them an extension. What was that meeting about?

Mr DRISCOLL: I wanted Mr Birds and Mrs Cheetham to make sure in the course of preparing and finalising the section 69 report that if any further information came in from any party, that it was given serious consideration.

The Hon. JOHN RYAN: But you were—

Mr DRISCOLL: Sorry, Mr Ryan, if I could continue.

The Hon. JOHN RYAN: Yes, sorry.

Mr DRISCOLL: The issue that I was concerned about was that the department not come into information that was material or relevant to its consideration and that it would not give that information due consideration.

The Hon. JOHN RYAN: Do you understand that it appears to be that the only people giving this information to these staff are people from Westfield? There were not submissions that anyone else could see. Other parties did not seem to be participating in the process with Ms Cheetham and Mr Birds other than Westfield, that would be true, would it not?

Mr DRISCOLL: That may well have been the case but had any other party made a submission, the requests that I made of Mr Birds and Mrs Cheetham would have applied equally to them.

The Hon. JOHN RYAN: That might be the case, but how would they know? How would other parties have known to send material to them?

Mr DRISCOLL: They may have found out from a number of sources. They could have rung the council. The council would have advised that the matter was with the department for consideration. They may have advised then that if they had further submissions, to make them to the department.

The Hon. JOHN RYAN: Do you recall that of the advice that Westfield sent to you was another report, which had commented on previous economic assessments, which had been part of the process? Do you not think that it would have been fair to have ensured that that particular set of comments was exhibited to other people, like for example Gazcorp, so that they could have had people assess that advice as well? It is pretty technical advice. It appears to me to be exactly the sort of stuff, in case it became the last word on the subject, that process could have gone on forever, could it not?

Mr DRISCOLL: I think what Mr Birds and Mrs Cheetham did with that information was then seek further internal advice within the department about it and sought an opinion about the value of that information.

The Hon. JOHN RYAN: Do you remember receiving some material from lawyers Gilbert and Tobin, of which a copy was sent to Mr Knowles? It says, "Proposed draft amendment No. 92 to the Liverpool local environment plan 1997". Essentially, the correspondence in summary appears to come from the proponents or people representing the proponents of the Cross Roads site and they are in fact requiring, I put it to you, a number of things: The Minister should refrain from making any decision on council's submission—that is, their application for the change to the LEP, if I might summarise that—until council's processes have been remedied and "Our client requires by 12 noon tomorrow ... to provide a written undertaking to our client that it will not

proceed to make any consideration under section 69 of the EP&A Act of the Council's Submission until Council has made a formal decision" in regard to, I imagine, the Cross Roads, it goes on to say. Do you remember that correspondence?

Mr DRISCOLL: I do remember the correspondence.

The Hon. JOHN RYAN: What was the impact of that correspondence when you received it?

Mr DRISCOLL: I passed the correspondence to Mr Birds and Mrs Cheetham as the people that were preparing the section 69 for it.

The Hon. JOHN RYAN: That was another piece of submission against the approval of the section 69 report, was it not?

Mr DRISCOLL: The correspondence that was received suggested that there should be no further action on the section 69 report at all.

The Hon. JOHN RYAN: That is right. It certainly would have been against the idea of the section 69 report recommending approval of the LEP, was it not?

Mr DRISCOLL: I do not know how Mr Birds and Mrs Cheetham dealt with that correspondence.

The Hon. JOHN RYAN: That correspondence is dated 6 May. Was that the first time you had been informed by Gilbert and Tobin of the objections from the Cross Roads?

Mr DRISCOLL: That is the first time I recall receiving correspondence from them.

The Hon. JOHN RYAN: It is just that you said a little earlier that this was one of the reasons why there was advice sought from the Premier's Office in regard to the need for legal advice about the process. Is it possible that you have got those two events confused?

Mr DRISCOLL: There were suggestions or, as I understand it, submissions made to Liverpool council at the time that the draft plan was on exhibition regarding the process that they had followed. There were a number of issues that I think had been raised, by which party I cannot recall, about how the draft plan had been exhibited.

The Hon. JOHN RYAN: I have a piece of correspondence from David Birds also to Michael Meagher. It seems to me that people in this process were in constant—was there some sort of protocol about contacting the Minister's office or how contact with the Minister's office would occur? It appears that you contacted the Minister's office. I have seen correspondence from Mr Prattley and now I have got an email from David Birds dated 4 May to the Minister's office. Was it common for the Minister's office to ask people for information about this?

Mr DRISCOLL: Generally, contact with our office from the Minister's office was channelled through Mr Prattley.

The Hon. JOHN RYAN: Do you think there is any chance that the Minister's office were asking questions about this without knowing the progress of the section 69 report and what its likely recommendation was?

Mr DRISCOLL: I am sorry, Mr Ryan?

The Hon. JOHN RYAN: The earliest versions of the section 69 report all contain a recommendation for the plan to be approved. Many of those versions were completed, I think in late March or early April. The Minister, through Mr Meagher, has been asking quite a number of questions about progress and so on. Do you think there is any chance that there would not have been some discussion between the Minister's office and the department inquiring as to what the recommendation was that had already been drafted into that report?

Mr DRISCOLL: I am not aware of any contact such as that.

The Hon. JOHN RYAN: All right. In this note from Mr Birds, he says:

Michael

I'm attaching the documents you asked Stephen Driscoll for, namely:

- 1 DIPNR letter to Council dated 1.4.04;
- 2 HillPDA report on net community benefit ...; and
- 3 Westfield submissions on (2) above (these comprise a letter from Westfield and a report prepared for them by URBIS).

Items 2 & 3 will be referred to in the S69 report we are preparing for the Minister.

Do you recall being asked for those things from Mr Meagher?

Mr DRISCOLL: I recall Mr Meagher asked for some information, yes.

The Hon. JOHN RYAN: How did he go about doing that?

Mr DRISCOLL: I think it was via a telephone conversation that I had with him.

The Hon. JOHN RYAN: Do you remember Mr Meagher explaining why he wanted them?

Mr DRISCOLL: He asked me, or he was aware that those documents had been submitted or made available and asked whether or not he may have a copy.

The Hon. JOHN RYAN: They all appear to be documents relating to material that has come from Westfield, are they not?

Mr DRISCOLL: They would be, yes.

The Hon. JOHN RYAN: So why was he wanting them?

Mr DRISCOLL: I do not know.

The Hon. JOHN RYAN: How did he become aware of the fact that there was material from Westfield submitted during the process?

Mr DRISCOLL: I am not sure of that, either.

The Hon. JOHN RYAN: Did Mr Meagher asked for other people who had made submissions on this matter?

Mr DRISCOLL: Did Mr Meagher ask for other submissions?

The Hon. JOHN RYAN: Have you completely forgotten all these conversations altogether, Mr Driscoll?

The Hon. AMANDA FAZIO: Do not be rude.

The Hon. JOHN RYAN: I mean, you have told me precious little about what Mr Meagher actually asked you. Can you try to remember the actual words that Mr Meagher used?

Mr DRISCOLL: Mr Ryan, I had no direct role in assessing this draft LEP. Mr Meagher came to me as the person in charge of the Western Sydney branch, so it is in that context I had my conversations with him. No, I do not recall the specifics of the conversation I had with him, other than the fact that he asked whether or not he may have a copy of those documents.

The Hon. DAVID OLDFIELD: Mr Driscoll, let me just bring you back to something that Mr Ryan was speaking about a moment ago with regards to the fax of 24 June to Mr Kahagalle, however you say it, regarding

the final line, "A number of issues remain to be resolved." You might remember that I questioned you extensively about this the last time you were here, along the same line as Mr Ryan has. In that matter, we did not get quite as far as you have with Mr Ryan now. Do I understand that you are acknowledging that your original email would have said something along the line of, where it comes to that last line where you are saying, "A number of issues remain to be resolved"? Do I understand that you are now saying that you think that last line was amended by the legal department—that it is not your line?

Mr DRISCOLL: I liaised with the legal department in preparing that final version of the letter. The version of the letter that I prepared, I would certainly be confident in saying that the first sentence was probably pretty much as I drafted it. I do not recall whether or not I offered further advice in my letter and that was amended by the legal branch, or whether or not the legal branch simply suggested that we should add that final paragraph in.

The Hon. DAVID OLDFIELD: You are confident that that last line is not yours?

Mr DRISCOLL: That is right.

The Hon. DAVID OLDFIELD: Do I understand from what else you are saying, Mr Ryan, that you believe your last line may have actually referred to the matter remaining actually with the Minister making a decision?

Mr DRISCOLL: I honestly do not recall whether or not I included a line such as that in my original draft. I may have because that is what I understood the position to be at the time.

The Hon. DAVID OLDFIELD: But you are certain that that last line was not yours, referring to resolving the issue, because you acknowledge that there were no issues to resolve; it was only a matter for the Minister to make a decision.

Mr DRISCOLL: Or the Minister, in making a decision, as I said in my previous evidence, may have requested further information, or may have asked for further information to be furnished.

The Hon. DAVID OLDFIELD: Just coming back also generally to last week or the last time you were here, are you aware, Mr Driscoll, that generally when a person gives testimony, evidence—however you might like to describe it—when they address these sorts of matters, how believable what they have to say is based on things like consistency, based on corroborating material, and so on?

Mr DRISCOLL: I would believe that would have some—

The Hon. DAVID OLDFIELD: If I come back to what you had to say last time when I was asking you matters in relation to your email where you mention Frank Lowy and Bob Carr, and we talked about matters of the meeting that occurred last week, according to your email of the 20th—and your email of the 20th, I remind you, was on Tuesday—the meeting between Wedderburn and Ryan you said had happened on Monday the 19th, and your email refers to a meeting between Lowy and Premier Carr last week, not the day before, and in that where I asked you a number of things, you said, "I spoke with Mr Prattley I think probably on the Friday of the week before"—later you start to say you think it might have been the Thursday—"the week prior to-that email. He indicated to me that there was a meeting occurring between Westfield—". I cut you off and said:

Sorry, can I just interrupt you there for a second? You are saying that the meeting occurred last week. Now you are telling me that on the previous Friday—which is last day of the last week—

You said, "Yes.":

The Hon. DAVID OLDFIELD: Mr Prattley told you the meeting was going to occur.

Mr DRISCOLL: I beg your pardon?

The Hon. DAVID OLDFIELD: Your email says that Mr Carr and Mr Lowy met "last week".

Mr DRISCOLL: That was my belief, yes.

So you are now saying again it was your belief that the meeting had happened the week previous to that Wedderburn and Ryan meeting. I then say:

Now you have started to tell me that your belief of how this came about is that Mr Prattley on the previous Friday, which is last week, had told you that the meeting was going to occur.

Then you very specifically answer:

My recollection was that it had occurred—I will correct the record for you ...

So you are actually offering to correct the record as to your absolute recollection, which is that the meeting had already occurred the previous week, prior to the Wedderburn and the Ryan meeting the previous day. You then go on to say, "but I was not certain of the timing as to when that meeting did occur." I then said:

So your understanding then is that on the Friday, when Mr Prattley informed you of this—that the meeting had already occurred—

And you said:

It may have already occurred or it may have been going to occur.

Can you understand, Mr Driscoll, that you are backwards and forwards, backwards and forwards. In a matter of sentence after sentence, question after question, you not only change your mind about when it occurred or if it occurred or how it occurred, but you even go to the point of wanting to clarify the record by saying that it occurred, as far as your understanding, the previous week, and then in the next sentence change your mind again. How credible and believable and consistent do you find that?

Mr DRISCOLL: Mr Oldfield, I was confused, I will admit, by your line of questioning, but I remember—

The Hon. DAVID OLDFIELD: How confused can you be about did the meeting happen last week or this week? Your email says "last week". How confused can you be?

The Hon. AMANDA FAZIO: Point of order: My point of order is that the Hon. David Oldfield is badgering the witness while he is attempting to answer the question. I would be interested to hear Mr Driscoll's answer and I would ask you to ask the Hon. David Oldfield to cease interrupting him.

CHAIR: Allow Mr Driscoll to answer the questions when asked.

Mr DRISCOLL: And the question was, Madam Chair?

The Hon. DAVID OLDFIELD: You started to—and now you are even forgetting your own answers. You started to tell us about how you were confused, and that is becoming increasingly evident.

Mr DRISCOLL: Mr Oldfield, as I said in an answer to Mr Ryan, I have not had direct involvement in assessment of this particular draft LEP. Mr Prattley approached me on the Thursday or the Friday of one week and asked for briefing materials to be prepared. I passed that request to the officers who were dealing with the plan. I next spoke with Mr Prattley on the Tuesday morning of the following week, which led then to the email from which you have been reading, and my impression at that time from talking with Mr Prattley was that a request had come from the Premier's Department for the draft LEP and section 69 report to receive legal review, and my impression from my discussion with Mr Prattley was that that had arisen from a meeting that occurred the previous week for which the briefing materials had been requested.

The Hon. DAVID OLDFIELD: Mr Driscoll, are you aware that there has been any threats in relation to this matter regarding your job and the evidence you may give here, that at least ICAC may well resolve those matters for you?

Mr DRISCOLL: Could you ask the question again, please?

The Hon. DAVID OLDFIELD: Are you aware that there has been any threats in relation to your job, in relation to the evidence you give to this inquiry—that further down the track ICAC will be able to address those matters for you? Are you concerned about your job? Have there been any threats made where your testimony is concerned?

Mr DRISCOLL: I have had no threats made to me.

The Hon. PETER PRIMROSE: Other than by Mr Oldfield.

The Hon. AMANDA FAZIO: Mr Driscoll, you have conceded in earlier evidence to the Committee that many of the facts contained in an email written by you on 20 April 2004 to Ms Cheetham and David Birds are incorrect.

Mr DRISCOLL: I have, yes.

The Hon. AMANDA FAZIO: Do you concede that you were wrong to include in your email the words, "arising from a meeting between Bob Carr and Frank Lowy (owner of Westfields)".

Mr DRISCOLL: I have since found out that that was wrong, so, yes, I should not have said that.

The Hon. AMANDA FAZIO: Okay. This email went to only two people in your department, did it not—only two, Ms Laurel Cheetham and Mr David Birds?

Mr DRISCOLL: I beg your pardon? I only sent it to those two, is that what you said?

The Hon. AMANDA FAZIO: Yes.

Mr DRISCOLL: If it had gone to anyone else, they would have been included on the email as a CC, so—

The Hon. AMANDA FAZIO: Ms Cheetham and Mr Mosca both told this Committee that Mr Mosca was in frequent contact with Ms Cheetham about Liverpool council's amendments to the LEP. Is that correct?

Mr DRISCOLL: I understand that Mr Mosca had made a number of phone calls to the office, yes.

The Hon. AMANDA FAZIO: Mr Mosca was calling Laurel Cheetham almost every day to find out how the department's report was coming along, was he not?

Mr DRISCOLL: I do not have any first-hand knowledge of that, but I do know that Laurel said that—I am sorry, Ms Cheetham said that—she had received a number of telephone inquiries from him.

The Hon. AMANDA FAZIO: Now, you are aware that Mr Mosca was the intended beneficiary of the LEP amendment: Liverpool council was the actual applicant, not Mr Mosca and Mr Gazal. Do you think it appropriate that the beneficiary is on the phone all the time to Ms Cheetham?

Mr DRISCOLL: That would depend on the questions he was asking. It would not be unusual for applicants or people with an interest in the LEP to follow its progress through the department.

The Hon. AMANDA FAZIO: Okay. Now, do you concede that people could have the perception that Ms Cheetham could not have written a thorough, comprehensive assessment of all the issues relating to this matter when she had Mr Mosca breathing down her neck on such a frequent basis?

The Hon. DAVID OLDFIELD: What? What a load of rubbish!

Mr DRISCOLL: I asked Mr Mosca on one occasion to direct his inquiries to me, so I would be aware of what contact was being made.

The Hon. AMANDA FAZIO: Did you ever discuss the level of contact that the intended beneficiary of the LEP amendment was having with Ms Cheetham while she was writing the report?

Mr DRISCOLL: No, I do not recall that ever being discussed.

The Hon. AMANDA FAZIO: Ms Cheetham would have thought from your email 20 April that the Premier had in fact met with Mr Lowy to discuss Orange Grove. Would that be the case?

Mr DRISCOLL: That would be a fair assumption, yes.

The Hon. AMANDA FAZIO: And so the same would apply to Mr Birds?

Mr DRISCOLL: I would assume.

The Hon. AMANDA FAZIO: When did you find out that you were wrong and that the meeting you described never took place?

Mr DRISCOLL: I am not certain of the timing on that. It was a number of weeks after I had sent the email, but I could not be specific as to a date or a time.

The Hon. AMANDA FAZIO: Okay. So when did you tell Laurel Cheetham and David Birds that the information contained in your email of the 20 April concerning Mr Carr and Mr Lowy was wrong?

Mr DRISCOLL: It probably would have been around the same time as I discovered it was not the case.

The Hon. AMANDA FAZIO: Now, with Mr Mosca talking to Ms Laurel Cheetham so frequently, is it possible that Ms Cheetham told Mr Mosca that Mr Carr and Mr Lowy had met?

Mr DRISCOLL: I really would not know whether or not that would occur.

The Hon. AMANDA FAZIO: Okay. Mr Mosca said he was calling Laurel Cheetham all the time. Is it not likely that when the LEP did not just get rubber stamped, as Mr Mosca and Mr Gazal thought it would, that Mr Mosca called Ms Cheetham and asked her if she knew of any reason for it taking longer than he wanted?

Mr DRISCOLL: At what stage are you referring to?

The Hon. AMANDA FAZIO: I am talking about the stage after the report went to the head office and to the Minister's office.

Mr DRISCOLL: Mr Mosca may have contacted Ms Cheetham wanting to know, if there was a delay, what was the cause of that delay, yes, but I am not sure whether or not he did.

The Hon. JOHN RYAN: To be helpful, you are referring to that month—

The Hon. AMANDA FAZIO: No, I do not need any help from you, thank you. I did not interrupt your questions, so just butt out.

The Hon. JOHN RYAN: I am not trying to interrupt you.

CHAIR: Order!

The Hon. JOHN RYAN: But there was a month there when—

The Hon. AMANDA FAZIO: No, you do not have to call, so just be quiet.

The Hon. JOHN RYAN: Oh, all right. Well, it is a committee, believe it or not.

CHAIR: We'll get back to Ms Fazio.

The Hon. JOHN RYAN: Anyway, go ahead, then.

The Hon. PETER PRIMROSE: We're running it as a collective, now, are we?

The Hon. AMANDA FAZIO: You think you're being the Chair again, do you?

The Hon. JOHN RYAN: Not at all.

The Hon. AMANDA FAZIO: Sorry about this, Mr Driscoll. Mr Mosca has been involved with Ms Cheetham every day, but once the report was scrutinised by others high up in the department, serious questions were asked about whether the development was consistent with the centre's policy SEPP 66 and court decisions. That's correct, isn't?

Mr DRISCOLL: I understand that to be correct, yes.

The Hon. DAVID OLDFIELD: How could that be correct? How could that be correct?

The Hon. AMANDA FAZIO: Once it's out of Ms—

The Hon. DAVID OLDFIELD: Who higher up in the department?

The Hon. AMANDA FAZIO: Once it's out of Ms Cheetham's hands—

The Hon. JOHN RYAN: She doesn't know what she's talking about.

The Hon. DAVID OLDFIELD: She doesn't know what she's talking about. You're just reading a list of questions somebody else has given you. You've got no idea what's going on. There's no possibility they could be correct.

CHAIR: Order!

The Hon. AMANDA FAZIO: Well, we know who gives you your questions, it's these flunkies from Brogden's office.

CHAIR: Order!

The Hon. DAVID OLDFIELD: Is that what they are?

The Hon. AMANDA FAZIO: So, if you don't mind, I'll continue to ask my questions.

The Hon. DAVID OLDFIELD: At least we actually know what's going on.

CHAIR: Order!

The Hon. DAVID OLDFIELD: You're just reading this garbage, absolute garbage.

CHAIR: Order!

The Hon. DAVID OLDFIELD: There is no possibility that what you just suggested—

CHAIR: Mr Oldfield.

The Hon. DAVID OLDFIELD: —took place. That report was signed off by the most senior planner—

CHAIR: Mr Oldfield, you will—

The Hon. DAVID OLDFIELD: —in the State.

The Hon. JAN BURNSWOODS: Madam Chair, could you please—

The Hon. DAVID OLDFIELD: Who is the higher up?

The Hon. JAN BURNSWOODS: —call this interjector to order?

The Hon. DAVID OLDFIELD: Oh, interjector.

CHAIR: I just have.

The Hon. JAN BURNSWOODS: Very quietly—

CHAIR: Amanda—

The Hon. JAN BURNSWOODS: —and very ineffectually.

CHAIR: Okay. Amanda has the call.

The Hon. AMANDA FAZIO: Thank you.

The Hon. JAN BURNSWOODS: Ms Fazio.

The Hon. AMANDA FAZIO: Mr Driscoll, once the report left Ms Cheetham's hands and it has gone into the director-general and other planners and the Minister to scrutinise, that is when questions about the accuracy of the report were asked, wasn't it?

Mr DRISCOLL: Yes.

The Hon. DAVID OLDFIELD: Madam Chair—

The Hon. AMANDA FAZIO: So it stands to reason that once the—

The Hon. DAVID OLDFIELD: Point of order, Madam Chair. Could I please, for the benefit of the rest of the Committee—

CHAIR: Mr Oldfield.

The Hon. DAVID OLDFIELD: —have Ms Fazio explain to us who these other planners are that she is talking about?

The Hon. PETER PRIMROSE: David! David! David!

The Hon. DAVID OLDFIELD: Could we have the benefit of that information?

CHAIR: Mr Oldfield, you can ask that question yourself later on.

The Hon. DAVID OLDFIELD: No, no. It is Ms Fazio that needs to tell us because she is asking the question.

The Hon. AMANDA FAZIO: It's not a point of order.

CHAIR: No, she is able to ask one or two questions.

The Hon. DAVID OLDFIELD: Are you seeking a deliberative meeting, Mr Oldfield?

The Hon. PETER PRIMROSE: Let's have it now.

CHAIR: Order!

The Hon. DAVID OLDFIELD: No, I would like it publicly known who these other planners are that Fazio is speaking about.

CHAIR: Order!

The Hon. AMANDA FAZIO: No, you won't refer to me as Fazio.

The Hon. JAN BURNSWOODS: As I am sure the Chair can confirm, you are totally out of order.

CHAIR: Order!

The Hon. AMANDA FAZIO: You refer to me as Amanda Fazio.

The Hon. DAVID OLDFIELD: Well, she can work that out on her own. She doesn't need your help, Jan.

The Hon. PETER PRIMROSE: David! David! David!

The Hon. JAN BURNSWOODS: As I said, I am sure the Chair can confirm—

CHAIR: Order! There is no point of order.

The Hon. JAN BURNSWOODS: —if she feels you are out of order.

CHAIR: There is no point of order. Amanda Fazio, please.

The Hon. AMANDA FAZIO: Thank you. I'd like to take you through some statements made by other witnesses before this Committee, in particular Ms Kibble, Dr Haddad, Mr Prattley, Ms Westacott and Mr Weston. Everyone of them has said in relation to the 69 report that they would have, or in the case of Ms Kibble might have, come to a different conclusion and made a very different recommendation from the one contained in the report. Are you aware of that?

Mr DRISCOLL: I wasn't aware that all of those parties had made that testimony, but I am certainly aware that some have given that testimony.

The Hon. AMANDA FAZIO: Are you aware that Mr Weston, the senior planner at Liverpool council who first laid eyes on Gazal's DA on 6 June 2002, said it never should have been approved?

Mr DRISCOLL: I wasn't aware of that.

The Hon. AMANDA FAZIO: Are you aware that he told the planner who was delegated responsibility for approving the DA that it should not be approved in June 2002?

Mr DRISCOLL: I wasn't aware of that.

The Hon. AMANDA FAZIO: That is what he told Geoff Hunt, who was given the file. Are you aware that the applicants, Mr Gazal and Mr Mosca, wanted to get approval for the Orange Grove DA in two weeks?

Mr DRISCOLL: No, I wasn't aware of that.

The Hon. JOHN RYAN: Madam Chair.

The Hon. AMANDA FAZIO: And with your experience in this planning—

The Hon. JOHN RYAN: Madam Chair. Come on.

The Hon. AMANDA FAZIO: —do you think a council could have possibly—

The Hon. JOHN RYAN: Madam Chair.

The Hon. AMANDA FAZIO: —given approval to a request to build Orange Grove—

CHAIR: Mr Ryan.

The Hon. AMANDA FAZIO: —in two weeks?

CHAIR: Mr Ryan.

The Hon. JOHN RYAN: The question contains an imputation.

CHAIR: Order!

The Hon. JAN BURNSWOODS: If you wish to take a point of order, would you mind saying "point of order" so we know you're just not rabbiting on again?

The Hon. PETER PRIMROSE: So imputations are disorderly?

The Hon. JOHN RYAN: Point of order, Madam Chair. There is a question there that, fortunately, the witness didn't answer. But there was an imputation that Mr Gazal asked for something. I know of nothing before the Committee that suggest that Mr Gazal ever asked for two weeks.

The Hon. JAN BURNSWOODS: But how many conversations have you had with him over the weekend?

CHAIR: Order!

The Hon. AMANDA FAZIO: Yeah.

The Hon. JOHN RYAN: Well, I think the evidence before the Committee is that Mr Turrisi asked for two weeks, not Mr Gazal.

The Hon. AMANDA FAZIO: The question is—

CHAIR: If members could—

The Hon. JAN BURNSWOODS: You have carefully checked to protect him again, have you?

CHAIR: If members could not make imputations in their questions.

The Hon. AMANDA FAZIO: Thank you, Madam Chair, but I was not making an imputation. The Hon. John Ryan was not paying attention. My question to Mr Driscoll was, with your experience—

The Hon. DAVID OLDFIELD: Imputations are disorderly?

The Hon. AMANDA FAZIO: —do you think the council could have possibly given approval to a DA to build Orange Grove in two weeks?

Mr DRISCOLL: It's been a long time since I've dealt with development applications in a local government context. Had advertising been required, it would have been difficult to do that inside the two weeks.

The Hon. AMANDA FAZIO: When did you and your office at Parramatta become aware that Liverpool council wanted to amend the LEP, and when did you or the office get the first phone call or the letter from council in this matter?

Mr DRISCOLL: It was in—the exact date, I couldn't be specific, but it was in late December. Actually, it may have been early December that we actually learned of the draft LEP and, perhaps, later in December when we received correspondence about it.

The Hon. AMANDA FAZIO: The general manager of Liverpool council, Garry McCully, swore an affidavit to the Land and Environment Court that on September 19, 2003 the council had already decided before

that date to amend the LEP to accommodate Orange Grove. The general manager must have known that only the council could make this recommendation to the Minister, isn't that correct?

Mr DRISCOLL: Sorry, Mr McCully's affidavit made reference to—?

The Hon. JOHN RYAN: Did you say the year 2000?

The Hon. AMANDA FAZIO: Mr McCully swore an affidavit to the Land and Environment Court dated September 19, 2003 that the council had already decided before that date to amend the LEP to accommodate Orange Grove. The general manager must have known that the council could only recommend this to the Minister. Isn't that correct?

The Hon. DAVID OLDFIELD: Point of order, Madam Chair.

CHAIR: Mr Oldfield on a point of order.

The Hon. DAVID OLDFIELD: How would Mr Driscoll know what the general manager must have known?

The Hon. PETER PRIMROSE: He's perfectly—the witness is perfectly free to answer as he wishes, Madam Chair.

CHAIR: Yes, Mr Driscoll, you may answer only what you know to be the case.

Mr DRISCOLL: I have no knowledge of that affidavit that Mr McCully made in relation to the court proceedings.

The Hon. AMANDA FAZIO: Okay. The department was, at one stage, thinking of handing the responsibility in relation to Orange Grove over to Liverpool council, is that correct?

Mr DRISCOLL: The council had resolved to prepare a draft plan, and it had exercised its delegations in issuing section 65 certificate. The normal process for that is that it is not unusual that the council actually exercises its section 65 delegations for it also to exercise its section 69 delegations. The department—which meant that the council would prepare the section 69 report, not the department. The department, up until the time that the council considered the report and resolved to send it to the department, or the section 69 report, up until that time the department, I think, had an open mind as to whether or not it would allow the council to continue with the assessment and prepare its own section 69 report.

The Hon. AMANDA FAZIO: So when was it decided, and by whom, to have the section 69 report drafted by the department?

Mr DRISCOLL: That was not a decision that the department made. It was a consequence of the action that Liverpool council took in resolving to adopt the plan and send it to the department, and because the department had previously written to the council advising that we did not wish them to exercise their section 69 delegations until certain things had occurred, by sending it to the department the council put the department in a position of having to prepare the section 69 report.

The Hon. AMANDA FAZIO: Mr Driscoll, why didn't the section 69 report make any mention of the fact that the court had ruled the development to be illegal on two occasions?

Mr DRISCOLL: I didn't prepare the section 69 report, so I couldn't answer that.

The Hon. AMANDA FAZIO: Okay. And do you have any idea where the suggestion came from, was it ever made to you or to Ms Cheetham or to Mr Birds, that the council would be sued for tens of millions of dollars in damages by Gazal if the LEP didn't get the go ahead?

Mr DRISCOLL: That had been recorded, I think, in local media, which we were certainly aware of. But I am not aware of anyone specifically making that imputation to either Mr Birds or Ms Cheetham.

The Hon. AMANDA FAZIO: So if you were aware of that as being an issue in the local media, why weren't these matters included in the report to the Minister?

Mr DRISCOLL: Again, I didn't prepare the section 69 report so I couldn't speak to that point.

The Hon. AMANDA FAZIO: If the section 69 report had been the only document of advice available to the Minister in making a decision, there would have been huge gaps and very serious omissions in the information provided to her. That's the case, isn't it?

Mr DRISCOLL: I've not read the section 69 report so I can't offer you an opinion on that.

The Hon. AMANDA FAZIO: But Ms Cheetham drew up the section 69 report?

Mr DRISCOLL: Yes.

The Hon. AMANDA FAZIO: And you were her supervisor?

Mr DRISCOLL: Yes.

The Hon. AMANDA FAZIO: So how come you didn't?

Mr DRISCOLL: Mr Birds was the delegated officer who signed off on the section 69 report.

The Hon. AMANDA FAZIO: Okay. If the Minister had based her decisions solely on the section 69 report, it would not be possible to say that she had the full facts in relation to Orange Grove in front of her, wouldn't that be so?

Mr DRISCOLL: Mrs Cheetham, I'm sure, and Mr Birds when they prepared their section 69 report prepared it containing material and evidence that they thought was substantive and would allow the Minister to make a decision. Others have offered opinions that that information was lacking and that has led to further information being provided to the Minister during the course of her assessment.

The Hon. PETER PRIMROSE: I draw your attention to the time.

The Hon. AMANDA FAZIO: This is my final question. Were you confident in their ability when they didn't advise the Minister of things like the fact that there had been two adverse court actions? I mean, ultimately, these people worked for you and you supervised them. The fact that they didn't put some of these key issues in the section 69 report, even in terms of background material, they didn't have to cast judgment on whether they were correct or not, but just on the basis of the decision maker needing to know the full range of information within the report. Were you confident in the quality of their work if they left these glaring omissions in relation to this case?

Mr DRISCOLL: I had confidence in their ability to prepare the section 69 report, and it was certainly within each of the delegations to be able to do so. Had I read the section 69 report I may have suggested that they might include further information before it was finalised and sent further for consideration. But I guess that comes back to the matter of being within their delegations. Being delegated, I left it delegated to them and didn't involve myself in the preparation or reading or whatever of the report.

The Hon. JOHN RYAN: Madam Chair, may I just ask a final question?

The Hon. PETER PRIMROSE: Well—

CHAIR: One more question? Sylvia's got some questions, Mr Ryan.

The Hon. PETER PRIMROSE: Madam Chair, I don't want to make a point of order, but, really, as I raised privately, we have a large number of witnesses today. We have to stick to the timetable and one more question leads to another question and it is going to keep going.

CHAIR: Mr Ryan has a question. Sylvia's got some questions.

The Hon. JOHN RYAN: I've got new material.

The Hon. DAVID OLDFIELD: I've just got one.

CHAIR: And Mr Oldfield's got one.

The Hon. PETER PRIMROSE: You know, Madam Chair, I don't want to waste time, but, really—

The Hon. AMANDA FAZIO: We won't have any question time left for ours.

The Hon. DAVID OLDFIELD: Well, you are wasting time.

The Hon. PETER PRIMROSE: —we've got a timetable.

CHAIR: I'm going to do my best to stick to the timetable.

The Hon. PETER PRIMROSE: But the timetable—

CHAIR: Mr Driscoll has been here on a number of occasions, and if members have questions and they can't ask them we will have to bring him back again.

The Hon. PETER PRIMROSE: Well, no. Well, there should be—

CHAIR: It would be easier to wrap it today, if possible.

The Hon. PETER PRIMROSE: Yeah, but we have other people coming in.

CHAIR: We have.

The Hon. PETER PRIMROSE: Let's stick to the—

The Hon. JOHN RYAN: I think we've spent more time discussing the question than I was going to spend answering.

The Hon. DAVID OLDFIELD: Asking.

The Hon. JOHN RYAN: Asking.

CHAIR: I'm going to try—

The Hon. PETER PRIMROSE: Well, "answering" is probably appropriate.

CHAIR: We're going to try our best. Okay, Sylvia.

The Hon. PETER PRIMROSE: Well—

The Hon. JAN BURNSWOODS: I will take a point of order, Madam Chair. The timetable said that Mr Driscoll is due to finish and we have a morning tea break at 11.00 a.m. Some members of the Committee were not here and we started at 10 past 10. Therefore we have now had Mr Driscoll for the hour. We've got eight more witnesses due to come today and the time has been allocated according to the normal process. But we should now be finishing the time. I have no objection to members putting questions on notice. And if we are going to simply allow members to ride roughshod over the timetable and their allocation of questions between the different groups on the Committee then I ask you to rule that they should place those questions on notice and we should finish with this witness now, 12 minutes after scheduled time.

CHAIR: There's no point of order. If you want to have a morning tea break you may go and have one. Sylvia Hale has some questions.

The Hon. PETER PRIMROSE: What a joke!

Ms SYLVIA HALE: Mr Driscoll, you said that you shared an office with Ms Cheetham and Mr Birds. Was that physically the same office or you just generally—

Mr DRISCOLL: No. No, when I say, "shared an office" we sat in the same floor. I sat separate from them.

Ms SYLVIA HALE: Would it be fair to say that the three of you were very conscious of the allegations being made with regard to Liverpool council with regard to the Oasis development and just generally, you know, what appeared to be improper conduct of that council?

Mr DRISCOLL: Certainly I was aware of it. I imagine Mr Birds and Mrs Cheetham may well have been as well.

Ms SYLVIA HALE: It would be impossible not to be, given your particular interest in that area, wouldn't it?

Mr DRISCOLL: It's possible that they weren't, but I can speak for myself: I was.

Ms SYLVIA HALE: So, it's quite reasonable to suspect that Ms Cheetham and Mr Birds, when they were drawing up the section 69 report in view of the council being dismissed and that it had been replaced and Ms Kibble was made administrator, in any report or recommendations they had made they would be particularly keen to dot the Is and cross the Ts?

Mr DRISCOLL: I think that would be the case with each of those officers irrespective of the particular LEP, the particular council.

Ms SYLVIA HALE: Well, yes, presumably that would be the normal course, but in this case they would be even more conscious of that?

Mr DRISCOLL: I cannot speak for them; I am not sure that they would have been. I can say that they would have been generally, for any LEP that they dealt with, careful and seek to follow the letter of the law and dot the i's and cross the t's on all of them.

Ms SYLVIA HALE: Ms Fazio mentioned that she thought it was remiss for the report not to have made reference to two adverse court actions. But would you agree that the whole reason for preparing a LEP was in fact to alter the outcome, or at least to respond to the initial adverse decision by the court—namely, to extend the definition of "bulky goods" to permit the retailing to take place?

Mr DRISCOLL: The need for the LEP was as a consequence of those court decisions, yes. I agree with that.

Ms SYLVIA HALE: And everyone would have been fully aware of that. Ms Fazio also said—

The Hon. AMANDA FAZIO: Was that a question or an assertion, Ms Hale—"and everyone would have been aware of it"?

The Hon. PETER PRIMROSE: I think an imputation, wasn't it?

Ms SYLVIA HALE: It was a question: Do you agree that everybody would have been aware of that; that was the implication behind—the reason, the rationale for producing—the LEP?

Mr DRISCOLL: People certainly became aware of that during the course of the LEP. At the time that the council notified us of their intention to prepare the LEP I certainly was not aware of court proceedings. I don't know whether or not Mr Birds or Mrs Cheetham were.

Ms SYLVIA HALE: Ms Fazio also said that numerous people have said they might have come to different conclusions. But my understanding, particularly in the case of Ms Kibble, she said that if she had been

dealing with a greenfield site—a totally de novo application—then the response might have been different. But given that they were dealing with a bulky goods outlets that was already in place and operating she felt that there were different considerations to be borne in mind. Would you agree that that is the substance of much of the evidence that has been produced to the inquiry?

Mr DRISCOLL: I am aware generally that that is the view that Mrs Kibble has put. I guess that comes to respective weights that individuals might place on different components of the Environmental Planning and Assessment Act. Clearly, Mrs Kibble, in making that assessment, has placed probably more on the social and economic requirements of the Act—or certainly the social requirements of the Act. Others in their assessments have placed weight elsewhere in the Act, perhaps more on economic aspects and the orderly planning aspects.

Ms SYLVIA HALE: So it is possible with any LEP, or in fact any decision, for almost anyone to reach a different conclusion depending upon the importance they attach to different aspects.

Mr DRISCOLL: I wouldn't necessarily agree with that. I think there are some planning matters—there's a consensus view amongst all parties that a certain course of action is reasonable. Where there are perhaps difficult situations or difficult circumstances that is probably, as we have seen with this particular LEP, where people will place different emphasis on different parts of the Act.

Ms SYLVIA HALE: But you would agree, would you, that the conclusions reached by Mr Birds and Ms Cheetham were not unreasonable?

Mr DRISCOLL: They were conclusions that could have been reached on the evidence that they had available to them.

Ms SYLVIA HALE: And on the basis of their experience and knowledge and the area.

Mr DRISCOLL: Yes.

CHAIR: Mr Ryan.

The Hon. JOHN RYAN: I just want to ask you something which I think is in your knowledge. Do you recall sending an urgent memorandum to Ms Westacott on 22 June, which included requests for some advice as to how to respond to people who had been contacting you about this matter?

Mr DRISCOLL: Yes.

The Hon. JOHN RYAN: And among the things that you said is:

Of course, not replying is also an option, however, the lawyers acting for the owner of the complex have indicated that we may be served with a subpoena in the next 24 hours for a copy of the section 69 report, to assist their marshalling a case for a further stay.

We have not offered any advice to this or any other 3rd party as to the content or form of recommendations in the s69 report. I have also tried to dissuade them from serving the subpoena, however, I do not think I have succeeded.

Comment:

The timing of the current Court action, with respect to the as yet undetermined section 69 report is difficult, particularly if the Department is subpoenaed for a copy of the report.

I would appreciate your views on the most suitable response and would be pleased to discuss the position if it would be helpful.

Do you recall that memorandum?

Mr DRISCOLL: Yes.

The Hon. JOHN RYAN: Can you explain why you tried to dissuade Gazcorp from serving a subpoena and is it common for you to do that?

Mr DRISCOLL: Well, in the time that I was at the department I think this was the only application that I dealt with where there was a request for a subpoena on a section 69 report. In terms of why I was trying to

dissuade them, at this stage the matter was still undetermined and I felt that actually, depending on how they worded their subpoena, the effect of it might actually be to further delay the Minister's decision one way or the other on the instrument by causing the file and all of the papers to go from wherever they were—the director-general's desk, the Minister's desk. And so my dissuading them was in order for there to be a timely resolution or timely consideration by the Minister. I didn't want the file to disappear.

The Hon. JOHN RYAN: How would it be delayed? They would have only got a copy; it would have continued in its process. I don't quite understand how it would be delayed.

Mr DRISCOLL: The file, if the Minister was about to make a determination and the material needed to be copied, would need to physically go and materials be copied.

The Hon. JOHN RYAN: Is it fair to say—I mean, one way that you—

The Hon. AMANDA FAZIO: Point of order: Madam Chair—

The Hon. JOHN RYAN: I'm asking the final question. It will take less time than your point of order.

The Hon. AMANDA FAZIO: This is your fourth final question. Can't you count? David Clarke thinks you can't.

The Hon. JOHN RYAN: One way of reading this memorandum is that you are concerned that Gazcorp would have discovered the contents of the section 69 report—that is, that there was a direct recommendation that there would have been a proposal to proceed and there would have been no contradictory material to that—and that information going to the court might have conveyed a false impression to the court about the likelihood of the LEP succeeding. Was that a consideration?

Mr DRISCOLL: That certainly wasn't my concern. As I said, I was concerned that the file would physically go and whatever period of time would be taken with copying papers to serve the subpoena—or, sorry, to meet the requirements of the subpoena.

The Hon. JOHN RYAN: Right. Thanks.

CHAIR: Mr Oldfield, one last question.

The Hon. DAVID OLDFIELD: Mr Driscoll, you would be aware that this Committee has finally ascertained by various testimony that Mr Prattley is essentially the department's most senior planner and that he is the person who meets with the Minister on a monthly, or that sort of period, basis. He is the first point of contact and the person who briefs the Minister.

Mr DRISCOLL: I think generally I agree with you. I think Mr Prattley also indicated that Mr Haddad was of an equal ranking.

The Hon. DAVID OLDFIELD: Ranking he may be in the organisation but we also know Mr Haddad has no planning background and no planning qualifications. So we are back with Mr Prattley, who is the person who meets with the Minister and who is senior to you. Is that correct?

Mr DRISCOLL: That's right.

The Hon. DAVID OLDFIELD: A moment ago you answered a question from Amanda Fazio where, with a lot of prompting, you suggested that had you seen, had you read, the section 69 report you may have included other things. Is that correct?

Mr DRISCOLL: Yes, I said that if the matter had not been delegated or it had been for me to prepare the section 69 report, if I had reviewed it, I may have made some amendments to it; I may have changed it.

The Hon. DAVID OLDFIELD: What is your view of how it is that Mr Prattley, the most senior planner with actual qualifications who meets with the Minister on a regular basis and is her first point of contact, how do you explain that he signed off on the plan personally? He'd obviously read it; he made no changes, made no

recommendations, made no amendments. He didn't do what you're suggesting you might have. How would you explain that?

Mr DRISCOLL: Mr Prattley indicated that his endorsing of the plan indicated that he was comfortable with the recommendations that had been reached but I think his evidence was also that other conclusions might have been drawn or could equally have been drawn.

The Hon. DAVID OLDFIELD: Later, months later, Mr Driscoll, not at the time when he signed off on the plan. Mr Prattley only apparently had some reservations when he had been called in and spoken to. That is the way the evidence has gone before this Committee. Thank you.

CHAIR: That wraps it up. Thanks very much, Mr Driscoll, again for your appearance here today and for assisting the Committee.

Mr DRISCOLL: You're welcome. Thank you.

(The witness withdrew)

ANTHONY PAUL BEUK, Former councillor, Liverpool City Council, Austral, sworn and examined:

CHAIR: Mr Beuk, thank you for being here today. What is your occupation?

Mr BEUK: I am here as a former councillor of Liverpool City Council but I am the information technology director for the Australian Labor Party.

CHAIR: So you are appearing before the Committee as a former councillor.

Mr BEUK: Yes, as a former councillor.

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

Mr BEUK: I have had a look at the terms of reference, yes.

CHAIR: Thank you. If you should consider at any stage that certain evidence you wish to give or documents you may wish to tender should be heard or seen only by the Committee, please indicate that fact and the Committee will consider your request. Mr Beuk, do you have a short statement to start off with this morning?

Mr BEUK: Not at this stage, no.

CHAIR: Are there any questions?

The Hon. JOHN RYAN: Yes, Madam Chair.

CHAIR: Mr Ryan.

The Hon. JOHN RYAN: Mr Beuk, first of all, could you explain to the Committee your association, if any, with the factory outlet?

Mr BEUK: As a former councillor on Liverpool City Council, I am certainly known to be a friend with the architect, Mr Frank Mosca, and the owner, Nabil Gazal. In terms of the development application and subsequent rezoning, being a councillor I was aware of both the department application and obviously aware of the rezoning that was put to council.

The Hon. JOHN RYAN: Did you support this application?

Mr BEUK: Yes, I did.

The Hon. JOHN RYAN: Did you have to make any decisions in council in regard to it?

Mr BEUK: The only decision council made was in relation to a rezoning application, which was a combination of the Orange Grove site and the site at the Cross Roads—the application put forward by AMP. That application for rezoning came to council, from what I can recall, towards the end of 2003 or thereabouts. At that time council, from recollection, made a decision to exhibit that amendment.

The Hon. JOHN RYAN: Did you lobby any council staff while it was under consideration of delegated authority of the staff?

Mr BEUK: Not at all.

The Hon. JOHN RYAN: What's your relationship with Mr Gazal?

Mr BEUK: I've known Mr Gazal I'd say for probably eight or nine years. I consider him as a friend; I wouldn't say a close friend—I mean, we don't socialise to that extent. It's been very much I suspect a business-type relationship.

The Hon. JOHN RYAN: We've had evidence before the Committee that you might have made a number of calls to Mr Meagher in Diane Beamer's office. Is that the case and could you explain why you were making those calls?

Mr BEUK: Over a period of three months I made probably about 35 or 36 calls to the chief of staff of Diane Beamer's office on the basis of getting an update on where the rezoning application was up to, given the fact that the administrator of council at the time made a determination to have the matter dealt with by the Department of Infrastructure, Planning and Natural Resources [DIPNR]. So the gist of the phone calls was purely to gauge an update through the process as to where that rezoning application was up to.

The Hon. JOHN RYAN: Why were you doing that?

Mr BEUK: In terms of my original support for the application. I think the critical aspect associated with the jobs, the businesses, that were associated with Orange Grove, and I think the need to make a determination, whatever that determination was, as quickly as possible.

The Hon. JOHN RYAN: Have you ever discussed this with anybody in your role as a member of staff of the Australian Labor Party in its head office?

Mr BEUK: No, I have not.

The Hon. JOHN RYAN: Have you ever discussed this with Mr Roozendaal?

Mr BEUK: No, I have not, other than a question that was posed to me. But no discussion other than that.

The Hon. JOHN RYAN: What you mean a question that was posed to you?

Mr BEUK: A background. I suspect it arose as a result of the court proceedings in relation to Orange Grove. What appeared before the court in terms of what council had done previously and where it was at. It was more a background into the process exactly what council had done in relation to that item.

The Hon. JOHN RYAN: Did Mr Roozendaal ask you to background him?

Mr BEUK: No. In terms of background, but nothing else.

The Hon. JOHN RYAN: I am just putting to you, did Mr Roozendaal ask you for some information about this matter?

Mr BEUK: Yes, he asked me some questions about the matter.

The Hon. JOHN RYAN: Do you recall when that happened?

Mr BEUK: No, I cannot recall, other than obviously it happened in 2004. I certainly would not be able to gauge when that happened.

The Hon. JOHN RYAN: Do you know the month that it might have been?

Mr BEUK: No. Again, I could not say. I am trying to recall whether it arose as a result of the court proceedings. I think the first determination of the court occurred in early 2004, if I recall correctly. I am not sure about that. I do not know at what time that question arose.

The Hon. JOHN RYAN: Do you recall why it might have been asked?

Mr BEUK: I mean, in terms of my role as a councillor on Liverpool City Council, there was always general discussion about the way the council was proceeding, particularly obviously as it faced the other inquiries in relation to the Oasis project.

The Hon. JOHN RYAN: Have you ever told someone else that the reasons you were asked questions by Mr Roozendaal was because you saw representatives of Westfield, to wit Mr Mark Ryan, attending the office at

Sussex Street and after they had left you were called in to speak to Mr Roozendaal to explain the details of the project? Have you ever told anybody that?

Mr BEUK: No. That was not the case.

The Hon. JOHN RYAN: Have you ever told anybody that that was the case?

Mr BEUK: No, I have not told anyone that that was the case.

The Hon. JOHN RYAN: Are you sure you are telling the truth, Mr Beuk?

Mr BEUK: Yes, I am. As I referred to, the only discussion I had with Mr Roozendaal was in reference to questions asked about background into Orange Grove. At no stage have I indicated to anyone that any person made any representation to Eric Roozendaal.

The Hon. JOHN RYAN: Do you know Mr Mark Ryan?

Mr BEUK: No, I do not.

The Hon. JOHN RYAN: You do not know him?

Mr BEUK: No.

The Hon. JOHN RYAN: Have you ever told anybody that you do?

Mr BEUK: No.

The Hon. JOHN RYAN: If anybody said to us that you had told them information of this nature, what would you say in response to that?

Mr BEUK: Well, it is incorrect.

The Hon. JOHN RYAN: Have you any idea why Mr Roozendaal was asking you questions? What prompted Mr Roozendaal to ask you questions at that time?

Mr BEUK: As I said before, in terms of what happened in relation to council. It was sort of a matter of fact. It would not have been, certainly I did not gauge any impression that there was, any motive to him asking other than as a result of council coming out of an Oasis inquiry, why this matter ended up in court.

The Hon. JOHN RYAN: Are you the secretary of the Austral-Bringelly branch of the Australian Labor Party?

Mr BEUK: Yes, I am.

The Hon. JOHN RYAN: Is Mr Mosca president of the branch?

Mr BEUK: Yes, he is.

The Hon. JOHN RYAN: Do you know Mr Knowles?

Mr BEUK: Yes, I do.

The Hon. JOHN RYAN: As in Mr Craig Knowles?

Mr BEUK: Yes.

The Hon. JOHN RYAN: Would you describe your relationship with him for the Committee?

Mr BEUK: With Mr Knowles?

The Hon. JOHN RYAN: Yes.

Mr BEUK: Well, we have known each other for in excess of 10 years. I have not socialised with him. I consider him a friend, in terms of the party.

The Hon. JOHN RYAN: Would you consider him to be a supporter of yours?

Mr BEUK: Well, I would consider him a supporter.

The Hon. JOHN RYAN: You are running for preselection. Does he always support you?

Mr BEUK: Yes.

The Hon. JOHN RYAN: Do you recall an occasion when his parents did not?

Mr BEUK: Yes, I do.

The Hon. JOHN RYAN: Do you recall visiting the home of Mr Bargshoon with Mr Mark Habib for the purposes of taking photographs of Mr Bargshoon?

Mr BEUK: Yes, I do.

The Hon. JOHN RYAN: What were the circumstances surrounding that event?

Mr BEUK: It was a matter that arose in relation to what was referred to as a bashing or a knife incident. They are the circumstances.

The Hon. JOHN RYAN: Did you take photographs of Mr Bargshoon?

Mr BEUK: I took photographs.

The Hon. JOHN RYAN: What was the purpose of taking photographs—

The Hon. PETER PRIMROSE: Point of order—

Mr BEUK: In terms of—

The Hon. PETER PRIMROSE: Point of order: Madam Chair, I ask your guidance as to the relevance of these questions to the terms of reference?

Mr BEUK: That is what I was about to get to as to—

The Hon. JOHN RYAN: I am happy to address the point of order. Madam Chair, among other things the Premier has referred to the shenanigans at Liverpool and has made them part of this inquiry by his public comments. We have as part of our terms of reference, "any other related matters." I consider this matter, particularly in view of other evidence I believe the Committee might receive, to be a relevant matter.

The Hon. PETER PRIMROSE: Further to point of order: I am not aware of the expression "other related matters" but the implication is that anything that has occurred in Liverpool ever could be investigated by this Committee. That seems a very broad assumption and I strenuously ask you that questions related to this matter are not within the terms of reference and accordingly are not lawful questions.

Ms SYLVIA HALE: To the point of order: I think there have been extensive allegations about webs of influence and improper pressures being brought to bear. In the context of what has happened at Liverpool, I believe this incident could well have bearing on the planning process that occurred there, so I suggest it is relevant.

The Hon. AMANDA FAZIO: To the point of order: The original point of order raised by the Hon. John Ryan is clearly incorrect.

The Hon. JOHN RYAN: I did not raise a point of order.

The Hon. AMANDA FAZIO: The issue that he raised of "any other matters" as part of our terms of reference is untrue. Paragraph 1. (f) of the terms of reference of this inquiry is, "other relevant matters arising from the Government's planning policies and decisions," which do not include the nature of the questions that were being asked by the Hon. John Ryan. I ask you to rule that the question is out of order.

The Hon. JOHN RYAN: It is relevant, Madam Chair.

CHAIR: It is relevant, as far as I am concerned, in relation to subparagraph (a), the circumstances surrounding the approval. So, the question is in order.

The Hon. JOHN RYAN: Mr Beuk, what did you do with the photographs you talk of Mr Bargshoon?

Mr BEUK: I do not believe that that in anyway has any relationship to offering any further clarification for this Committee in relation to the DA or the rezoning.

The Hon. JOHN RYAN: All right, I will ask another question. When you took pictures of Mr Bargshoon in relation to the bashing, were you aware at the time you were speaking to him what the actual circumstances of how he came to be bashed were?

Mr BEUK: No.

The Hon. JOHN RYAN: He did not explain to you that he had been bashed as a result of a hotel incident?

Mr BEUK: I know it arose out of a hotel, but that is about the level of detail.

The Hon. JOHN RYAN: Do you recall phone calls being made to head office during the time you were at his home?

Mr BEUK: No, I am not aware of that.

The Hon. JOHN RYAN: You do not recall Mr Roozendaal being called to the phone to speak to Mr Bargshoon?

Mr BEUK: I might add to the first point, again, I do not know how I can assist this Committee in providing any further details in relation to the DA or Orange Grove—the DA or the rezoning. I do not know where that level of questioning—I take the point that the Chair indicates there might be some evidence or detail that might relate to the DA or Orange Grove. I do not believe that to be the case.

The Hon. JOHN RYAN: Are you aware that this Committee has had representations to it from Mr Meagher explaining that he received a presentation from the Premier's chief of staff about this proposal and that among the things said about this proposal is that it had seedy origins at Liverpool council and that there was a general stench about it, and that after receiving that presentation there was a general presentation about some of the people who were supporting it, and at that time Mr Meagher mentioned your name as one of the people who had been supporting it. Do you accept that you were part of the seedy origins of this matter or that you were in anyway associated with it having a general stench about it?

Mr BEUK: From my personal point of view, not referring to the other matters because they are matters obviously raised previously by other people to the Committee, my involvement in this matter was simply to gauge where in the process this rezoning was up to. From my personal point of view, there was certainly nothing seedy about that.

The Hon. JOHN RYAN: So you do not accept that you were part of a network of influence which is improper or inappropriate?

Mr BEUK: Frankly, I do not accept that at all.

The Hon. JOHN RYAN: Do you know a person called Murray Douglas?

Mr BEUK: Yes, I do.

The Hon. JOHN RYAN: Could you describe to the Committee what his role was at Liverpool council?

Mr BEUK: Murray Douglas was contracted to Liverpool council as, if I have the title correctly, major project manager, officer, whatever, primarily to look at major developments in and around Liverpool. I think the initial focus was the Oasis. There were a number of other areas he engaged himself in.

The Hon. JOHN RYAN: Were you aware whether he had some concerns with regard to Mr Mosca and Mr Gazal about the procedures associated with this development?

Mr BEUK: I was not made aware of anything from Mr Douglas.

Ms SYLVIA HALE: Mr Beuk, how well do you know Graeme Wedderburn?

Mr BEUK: I certainly know him as the chief of staff. I have met him on a number of occasions. I am not sure how you describe that level of how well do I now him. I have probably spoken to him probably half a dozen times over the course of his appointment as chief of staff.

Ms SYLVIA HALE: So, when Mr Wedderburn, in answer to questions when he was asked as to whose names, the names of which people were raised in relation to these conversations with Mr Mark Ryan, and he volunteered that the two councillors he named were yourself and Mr Paciullo, you believe that Mr Wedderburn would have known you sufficiently well, so he was not just plucking a name out of the air? He knew specifically who he was talking about?

Mr BEUK: I think he would be aware. He would certainly recognise the name. I would imagine that would be the case, yes.

Ms SYLVIA HALE: So, when Mr Wedderburn was informed by Mr Mark Ryan as to his suspicions as to what was happening at Liverpool and he named you as one person who was deeply involved in this stench, this smell, whatever, you think Mr Wedderburn would have been fully aware of what he was saying?

Mr BEUK: Well, I am not sure, I cannot make reference to what he was fully aware of. What I can assure you was that he would have recognised my name. Other than that, you would have to ask him about those particular comments.

Ms SYLVIA HALE: So, do you believe that these remarks having been made, Mr Ryan having informed him as to Westfield's concerns about the matter, Mr Wedderburn made no attempt to contact you at all to see if there was any truth in these allegations?

Mr BEUK: No, there was no attempt to validate any of those allegations.

Ms SYLVIA HALE: So those allegations were made—

Mr BEUK: Well, certainly without my knowledge.

Ms SYLVIA HALE: And there was no verification by anyone that you were aware of?

Mr BEUK: None whatsoever that I was aware of.

Ms SYLVIA HALE: How well do you know Michael Meagher?

Mr BEUK: I would not say that well. I know him as the chief of staff. I have probably met him on two occasions. I would not describe that I know him that well.

Ms SYLVIA HALE: You said earlier that you made 35 or 36 calls to him.

Mr BEUK: Over three months.

Ms SYLVIA HALE: What months?

Mr BEUK: From recollection, it would have occurred post the administrator making the determination to rezone. I do not know when; either April or May—I suspect it was May, when the administrator had made the determination to rezone—to mid-June.

Ms SYLVIA HALE: So, it was April, May and June, because the council was dismissed in March. You made roughly 12 calls a month; that is, one every three days or so.

Mr BEUK: Yes.

Ms SYLVIA HALE: You must have got to know Mr Meagher fairly well over that period.

Mr BEUK: No, the conversations were fairly short. They were purely to gauge where in the process the rezoning was at. I would always end the conversation simply by asking whether it would be appropriate for me to contact him again to get an update.

Ms SYLVIA HALE: These conversations—approximately one every three days or so—occurred during April, May and June. Yet we know—and I stand to be corrected—that the meeting between Mr Wedderburn and Mr Ryan occurred on 19 April and was very soon followed by meetings with Mr Meagher.

Mr BEUK: Yes.

Ms SYLVIA HALE: Your conversations were after those critical allegations had been made, in which you were specifically named. Did Mr Meagher at any time during any of those conversations attempt to ask you about whether there was any in truth in the allegations?

Mr BEUK: No, there was no attempt. As I said, the conversations were short and cordial.

Ms SYLVIA HALE: Did he ever let you know the allegations had been made?

Mr BEUK: Not at all.

Ms SYLVIA HALE: What reasons did he give for the plan not proceeding?

Mr BEUK: I do not think he gave any specific reasons to me as to why the plan did not proceed. He did contact me to say that the Minister was not signing off on the plan, but I did not get any specific reason from him.

Ms SYLVIA HALE: Did you ask him why?

Mr BEUK: I simply gauged that it was not appropriate for me to ask. The idea was to find out the status, not to challenge why.

Ms SYLVIA HALE: I just find this difficult. Are you saying that you spoke on the phone—

Mr BEUK: The difficulty is that I am not a part of the process; it is irrelevant what I thought about the merits of a particular proposal. My role in contacting Michael Meagher was to gauge and get an update on the rezoning, not to make a determination as to whether or not the planners or the Minister were making a certain determination about it.

Ms SYLVIA HALE: You say that on the one hand you were not part of the process, but you obviously considered you were sufficiently interested in the outcome to ring every three or four days.

Mr BEUK: Yes, I was interested in the outcome.

Ms SYLVIA HALE: Are you saying that at every stage you said to him, "What is happening to the plan", and he said, "The Minister is still considering it"?

Mr BEUK: No.

Ms SYLVIA HALE: Did you ever ask what the reservations were?

Mr BEUK: Up until the final call, Michael Meagher had at no stage indicated that there were any reservations other than that it was merely going through the process and they were seeking further legal advice and whether the department still had and was required to provide further detail. That is the extent of—

Ms SYLVIA HALE: So you are saying that right up until the final call, Michael Meagher at no stage indicated there were any reservations.

Mr BEUK: Certainly not to me.

Ms SYLVIA HALE: When did he tell you there were reservations; when did you become aware of the reservations? You referred to a final call.

Mr BEUK: There was only one final call to me, and he made that call to indicate that the plan would not be signed.

Ms SYLVIA HALE: Did you say that he rang you?

Mr BEUK: Yes.

Ms SYLVIA HALE: Did he ring you often about this?

Mr BEUK: He would return my calls. He would have made two or three calls throughout. As I said, I instigated most of the calls.

The Hon. DAVID OLDFIELD: Did anyone suggest that you would perhaps be better off not coming here today?

Mr BEUK: Other than myself, no. No-one else suggested I would be better often not coming.

The Hon. DAVID OLDFIELD: What do you know about, or are you aware of, the meeting between representatives of Westfield and Eric Roozendaal?

Mr BEUK: I am not aware of any meeting with Eric Roozendaal with any party.

The Hon. DAVID OLDFIELD: What do you mean by "any party"?

Mr BEUK: The applicant or the objectors. I am not aware of any person making any representations to Eric Roozendaal.

The Hon. DAVID OLDFIELD: Are you aware of any person or party—whatever way you may wish to describe them—making representations of any kind to anyone at the Australian Labor Party headquarters—Mr Roozendaal, Mr Habib or anyone else?

Mr BEUK: Not that I am aware of.

The Hon. DAVID OLDFIELD: Do we know yet what it was that prompted Eric Roozendaal to ask you for background on Orange Grove?

Mr BEUK: As I said, it occurred early in 2004 and it was a matter-of-fact-type of question in relation to what was happening. As I said, it was probably as a result of what was happening in the courts and at council. Prior to that, which most people would be aware of, towards of end of 2003 and early 2004—

The Hon. DAVID OLDFIELD: But the council had been dismissed.

Mr BEUK: Correct.

The Hon. DAVID OLDFIELD: What interest would Eric Roozendaal have had in what was happening with an LEP or an application like this in the Liverpool area? He was the secretary of the ALP at the time, was he not?

Mr BEUK: Yes, he was.

The Hon. DAVID OLDFIELD: How many other LEPs and council matters does Mr Roozendaal acquaint himself with?

Mr BEUK: I cannot recall. I certainly cannot recall what other matters he discussed.

The Hon. DAVID OLDFIELD: He had not discussed other matters of this kind with you previously.

Mr BEUK: In terms of what?

The Hon. DAVID OLDFIELD: In terms of applications before Liverpool City Council.

Mr BEUK: There may have been the odd one, but I cannot recall the detail.

The Hon. DAVID OLDFIELD: You are saying there may have been the odd occasion and you cannot recall the detail. That is two entirely different things. Have you any recollection of Mr Roozendaal's discussing developments before Liverpool City Council in the past—a specific recollection?

Mr BEUK: As I said, I cannot recall. I would not be able to recall.

The Hon. DAVID OLDFIELD: So the answer is no, you cannot recall.

Mr BEUK: No, I cannot recall.

The Hon. DAVID OLDFIELD: What was it then do you think that prompted Mr Roozendaal suddenly, out of the blue, to ask you for background on Orange Grove, not having ever done that before with regard to any other application?

Mr BEUK: Given the status of council at the time, in 2003, the turmoil occurring and the inquiries, this was just another matter that ended up in court. Whether that was the same—

The Hon. DAVID OLDFIELD: What possible interest is this to the secretary of the ALP?

Mr BEUK: I think it was just from a personal point of view. I had worked for him for a number of years, so it would have been out of a personal interest in terms of how things were progressing. Certainly, my view of it would be that he was a friend trying to gauge the effect it had on me personally in terms of what happened at council and so forth. I would not describe it as an attempt to gather information for another purpose.

The Hon. DAVID OLDFIELD: Why would something happening at Orange Grove have some personal effect in you? You were not dismissed as a councillor as a consequence of anything to do with Orange Grove.

Mr BEUK: No.

The Hon. DAVID OLDFIELD: What personal effect could possibly have occurred that would have caused Mr Roozendaal to be so concerned about it that for the first time ever he would pin you down and want to know what was going on with Orange Grove?

Mr BEUK: I cannot answer that emphatically—

The Hon. DAVID OLDFIELD: Accurately would do.

Mr BEUK: —other than to say that in the conversation I had with him there was no suggestion whatsoever. I gauged it as a matter-of-fact concern about what was happening in relation to Liverpool City Council in general.

The Hon. DAVID OLDFIELD: Why did you and Mr Habib take photographs of Sam Bargshoon?

Mr BEUK: As I said, I do not believe that that is relevant to assisting this Committee in determining the DA or the rezoning.

The Hon. DAVID OLDFIELD: The Committee has determined that it is relevant. So do you have some reason—

The Hon. JAN BURNSWOODS: No, the Committee has not determined that.

The Hon. AMANDA FAZIO: No, it has not.

The Hon. DAVID OLDFIELD: The Chairman has determined it is relevant.

The Hon. AMANDA FAZIO: There is no Chairman.

The Hon. DAVID OLDFIELD: Do you have some reason for wanting to hide what was done with the photographs?

Mr BEUK: No, I do not other than—

The Hon. DAVID OLDFIELD: Then why will you not tell us?

Mr BEUK: Because it has no relevance. You are asking me as a former councillor to respond to your questions in relation to a development application and a rezoning. I put it to you that that matter has nothing to do with the development application that was approved by council or the subsequent rezoning.

The Hon. DAVID OLDFIELD: I put it to you that the only reason you will not answer is that you have something to hide, and that is very clear. How well do you know Sam Bargshoon?

Mr BEUK: I know him very well.

The Hon. DAVID OLDFIELD: How long have you known him?

Mr BEUK: I would hazard a guess—six years.

The Hon. DAVID OLDFIELD: When was the most recent time that you spoke to him?

Mr BEUK: I would have spoken to him yesterday.

The Hon. DAVID OLDFIELD: Before that?

Mr BEUK: Thursday.

The Hon. DAVID OLDFIELD: Before that?

Mr BEUK: Probably Tuesday, I imagine.

The Hon. DAVID OLDFIELD: So you have spoken to him at least three times in the past six days.

Mr BEUK: Correct.

The Hon. DAVID OLDFIELD: When was the last time you saw him?

Mr BEUK: Thursday evening.

The Hon. DAVID OLDFIELD: How long for?

Mr BEUK: I would not know, probably an hour.

The Hon. DAVID OLDFIELD: Why did you go to see him?

Mr BEUK: He came to see me.

The Hon. DAVID OLDFIELD: He came to see you. Where?

Mr BEUK: At my place.

The Hon. DAVID OLDFIELD: What was he coming to see you about?

Mr BEUK: He had put his nomination in to run for Werriwa

The Hon. DAVID OLDFIELD: Why did he come to see you?

Mr BEUK: I think to express his view about why he had done it. He was a party member for at least ten years—possibly 15 years or more. He was a member of the branch and, as I said, a member of the party for that period. He was a person I had spoken to on a regular basis, certainly over the past six years. I think he felt it was necessary to give his reasons as to why he did it.

The Hon. DAVID OLDFIELD: Can I gather that his candidacy is based on what has been done to Orange Grove?

Mr BEUK: He is certainly angry personally in terms of the impact it has caused him financially. That anger has made him resign from the party and run.

The Hon. DAVID OLDFIELD: How well do you know Mr Tripodi?

Mr BEUK: I have known Mr Tripodi for probably the same period, maybe longer, seven or eight years.

The Hon. AMANDA FAZIO: Much has been made about your discussing the Orange Grove proposal with Mr Roozendaal. Was it common practice in the ALP office for people to raise issues with you that had received media attention relating to Liverpool City Council?

Mr BEUK: Absolutely.

The Hon. AMANDA FAZIO: How often would that happen?

Mr BEUK: If any matter arose and they were aware of it and it hit the Sydney media there would obviously be questions or discussions about some of those items. If they were aware of anything happening in the local media that would occur as well.

The Hon. AMANDA FAZIO: If they read that something had happened in Liverpool, even though it might not necessarily relate to a council matter, they would talk to you informally to get an update.

Mr BEUK: Absolutely.

The Hon. AMANDA FAZIO: In relation to the Designer Outlet Centre at Liverpool, do you believe that your involvement in the council's handling of the matter and subsequently has been proper and above board?

Mr BEUK: Certainly, my involvement, yes.

The Hon. AMANDA FAZIO: When you were talking to Mr Meagher in Diane Beamer's office, were you lobbying him or were you simply seeking information from him?

Mr BEUK: Seeking information. At no stage did I attempt to influence or lobby Michael Meagher or the Minister to make a determination on the rezoning.

The Hon. AMANDA FAZIO: You said that Mr Bargshoon came and spoke to you last Thursday night. Did he indicate to you in those discussions his candidacy for the seat of Werriwa and whether he had been encouraged by anyone to nominate and run against the endorsed Labor Party candidate?

Mr BEUK: Only in broad terms. He made no specific reference to any individual.

The Hon. AMANDA FAZIO: In those broad terms who was he suggesting had encouraged him to run?

Mr BEUK: I think there would be a number of areas where he would seek encouragement but the clear thing that I gauged from Mr Bargshoon was that he was angry. He was angry with the loss of his business. He was angry with the loss of the businesses within Orange Grove. So a lot of support came from Orange Grove businesses that had been closed as a result of this. No doubt there would have been other people that probably would have supported him as well.

The Hon. AMANDA FAZIO: Did he indicate which particular businesses associated with Orange Grove had—

Mr BEUK: No particular reference to any particular business, no. He said in broad terms.

The Hon. JAN BURNSWOODS: Mr Beuk, when Mr Mosca lodged the DA in June 2002 did he discuss the project with you?

Mr BEUK: From what I can recall the original DA—I would not call it the original DA—my understanding, which is when I became aware of it, was that the application went to council as I think it is called a section 96, which is an amendment to a DA. The original approval on the site was for a bulk goods development and my understanding was that he was seeking variation to the original DA for a warehouse clearance outlet. It was at that point I became aware of it. Subsequent to that my understanding is that council officers did not support that the variation could be done under that amendment and sought to have a DA lodged. So it was prior to that time.

The Hon. JAN BURNSWOODS: So Mr Mosca did discuss it with you?

Mr BEUK: Yes, but certainly prior to the time you have indicated.

The Hon. JAN BURNSWOODS: When we spoke to, I think, Mr Weston the other day it seemed to be clear that there were in fact no prelodgement discussions of any importance.

Mr BEUK: As I said, what I indicated was that he had lodged, from my recollection, a section 96—correct me if I am wrong—which is an amendment to a DA. The Orange Grove site which has that building currently on it was approved for bulky goods. It had an approval for bulky goods. My understanding is that he sought to lodge an amendment to that. This occurred early in 2002 I would imagine, February or January. I am not sure when that timeframe is. The time that you are referring to, which is for the DA, was I think when council officers made a determination that the section 96 could not proceed as a variation but would have to go through a new DA.

The Hon. JAN BURNSWOODS: And that is what led to the lodgement of the DA?

Mr BEUK: Yes, that is my understanding.

The Hon. JAN BURNSWOODS: I have a copy of the DA here. So you discussed it with Mr Mosca?

Mr BEUK: He made me aware that he was lodging an application for a warehouse clearance outlet.

The Hon. JAN BURNSWOODS: Did you discuss it with Mr Turrisi?

Mr BEUK: No, not at that time.

The Hon. JAN BURNSWOODS: At some other time?

Mr BEUK: At some stage, yes.

The Hon. JAN BURNSWOODS: Can you tell us when that was?

Mr BEUK: He had indicated, I suspect when the actual DA was lodged, that there was concern about the economic impact and Gerard had a discussion with me about the economic impact. I indicated at the time that council's policy in relation to the CBD required a detailed economic assessment before such an application could be determined.

The Hon. JAN BURNSWOODS: So how would you explain Mr Turrisi's memo or phone conversation—we are not sure which it was—with Mr Weston asking for the DA to be determined within two weeks?

Mr BEUK: I could not shed any further detail. I was not told about that. I was not made aware of that two-week timeframe. I do not know where that arose.

The Hon. JAN BURNSWOODS: That timeframe would not fit in with a proper study of anything, let alone of an economic impact?

Mr BEUK: Correct, yes.

The Hon. JAN BURNSWOODS: Are you aware of the evidence that Mr Weston has given to this Committee?

Mr BEUK: I have read part of his evidence, yes.

The Hon. JAN BURNSWOODS: And that he has told us that he told Mr Turrisi that a factory outlet centre would not conform with the zoning, could not go ahead?

Mr BEUK: I read that in his evidence, yes.

The Hon. JAN BURNSWOODS: On another matter, somewhat later on when Westfield decided to sue Gazcorp—we are now into mid-2003 or perhaps a bit later—did Liverpool council get legal advice on this matter?

Mr BEUK: I cannot recall. I suspect they did. Again, I cannot verify that. Certainly I was not made aware of it. I have heard that mentioned but I cannot verify that.

The Hon. JAN BURNSWOODS: So as a councillor you would not have been aware of legal advice to the council on a matter that was potentially—

Mr BEUK: There was not legal advice that was presented to council.

The Hon. JAN BURNSWOODS: Who would it have been presented to?

Mr BEUK: I suspect the officers would have called for the particular legal advice.

The Hon. JAN BURNSWOODS: You have no idea of its content?

Mr BEUK: No.

The Hon. JAN BURNSWOODS: Did you ever having discussions with the general manager, who by then was Mr McCully, about the proposals to amend the LEP to retrospectively approve the centre?

Mr BEUK: I had a discussion with Garry McCully, yes.

The Hon. JAN BURNSWOODS: Can you tell us when?

Mr BEUK: I could not tell you the time other than to put it in context. It would have occurred around the time AMP were considering lodging a rezoning for a similar type of warehouse clearance outlet at the Crossroads. That is about the timeframe that I can pinpoint it to.

The Hon. JAN BURNSWOODS: And that was roughly when?

Mr BEUK: That was in 2003. I am trying to recall when that application was lodged with council. It could have been July, August. My recollection is that it was the latter half of 2003.

The Hon. JAN BURNSWOODS: Does it strike you as odd that all of these weighty, major matters were being done by council staff, by delegated authority?

Mr BEUK: We had a process in place to deal with applications that came before council. I guess the nature of this particular application, given that it came in as an undefined use from what I can recall, is probably—

The Hon. JAN BURNSWOODS: What do you mean by undefined use?

Mr BEUK: Within the LEP definitions associated with land use. There is a land use table which has the appropriate tick relative to the actual zoning. My recollection of the DA was that at the time it was lodged it was lodged as a warehouse clearance outlet. I suspect it argued—I cannot verify this because I have not seen any report—that it was not defined within the LEP and therefore the LEP has provision for the matter to be determined by council. It is not prohibited but can be determined by council. I think that is the reasoning as to where the planner at that time had made his determination.

The Hon. JAN BURNSWOODS: Yet if you look at Mr Weston's memo of 6 June it certainly seems to have been clear to him that it could not fit within the LEP.

Mr BEUK: As I said, I was not aware of that until Chris Weston's evidence. That was not brought to my attention or council's attention.

The Hon. JAN BURNSWOODS: It does seem to have been a strange sort of council where huge numbers of people were not aware of things that you would have thought—

Mr BEUK: You have got council officers there who have a duty of care, under guide by the general manager, and you have councillors. Their specific role is to deal with matters that come before council. This matter did not come before council and therefore was not dealt with by council.

The Hon. JAN BURNSWOODS: One of the questions I put to Mr Paciullo you might comment on was to remind him of the Daly inquiry, which declared him and the general manager guilty of culpable negligence in relation to the Oasis project, a pretty damning finding as I guess you would agree.

Mr BEUK: In this inquiry I am not going to make any comments in relation to the Daly inquiry.

The Hon. JAN BURNSWOODS: I wondered whether you might think that words like that, harsh as they are, might apply to other actions of Liverpool council.

Mr BEUK: The problem with that is that I would have to make certain other comments in relation to the Daly inquiry which I do not think is appropriate for this Committee.

The Hon. JOHN RYAN: Before you arrived at the Committee today, Mr Beuk, were you given any instructions by Mr Habib or Mr Eric Roozendaal about what you should or should not say to this Committee?

Mr BEUK: Not at all.

The Hon. JOHN RYAN: Did you speak to either of them this morning before you attended this Committee?

Mr BEUK: I spoke to Mark Habib, yes.

The Hon. JOHN RYAN: What did you speak about?

Mr BEUK: He had left a message, simply to gauge how I was feeling and not to be concerned about the Committee process and simply to tell the truth.

The Hon. JOHN RYAN: What involvement have you had with Mr Tripodi as far as Orange Grove is concerned? What conversations have you had with him?

Mr BEUK: In relation to that particular matter personally I do not recall any direct conversations I had with Joe Tripodi in relation to that item.

The Hon. JOHN RYAN: You and Mr Tripodi have never discussed Orange Grove?

Mr BEUK: Not that I can recall, no, not specifically where I contacted him or we met to discuss Orange Grove. No, we did not.

The Hon. JOHN RYAN: Were you not aware that he was supporting the project, as you were?

Mr BEUK: Yes, I was aware but, as I said, in terms of where I saw—for want of a better word—my role in terms of getting an update on it I did not believe that it was appropriate for me to discuss the matter with Joe Tripodi given the fact that he was supporting it and he was doing what he could do to make the necessary representations.

The Hon. JOHN RYAN: Were you ever asked by head office staff to contact Mr Bargshoon for the purposes of dissuading him from standing as an Independent?

Mr BEUK: I was not asked by head office or the party office to contact Samir Bargshoon to dissuade him. I simply did that off my own bat.

The Hon. JOHN RYAN: You wanted to discourage him from running—

Mr BEUK: Absolutely. I had a concern. He was angry about what had transpired. I did not believe it was the rational or most appropriate action that he could take under the circumstances. As a friend of nearly six years I thought I needed to make him aware of what I thought.

The Hon. JOHN RYAN: Did you participate with Mr Bargshoon and others in the formation of a new branch in the Campbelltown area a few months ago?

Mr BEUK: In terms of participating, I was aware of the branch forming. I cannot recall the actual time that I was aware of the branch forming. I was not directly involved with the actual formation of the branch at the time.

The Hon. JOHN RYAN: When you were going to dissuade Mr Bargshoon not to run, were you contacted by the Premier or someone from the Premier's Office and asked to make contact with him and dissuade him?

Mr BEUK: No, not at all.

The Hon. JOHN RYAN: You have not had any discussions with the Premier.

Mr BEUK: No discussions with anyone whatsoever in relation to anyone asking me to dissuade Sammy Bargshoon from running.

The Hon. JOHN RYAN: Did you ever tell Mr Bargshoon that the Premier had asked you to do that?

Mr BEUK: No.

Ms SYLVIA HALE: I just want to confirm something with you. There were major allegations made of corruption, stench, smells. They were made by Mr Ryan in discussions with Mr Wedderburn and in the course of those discussions your name and that of Mr Paciullo arose. You have said that no-one has questioned you about the basis of those allegations.

Mr BEUK: No-one.

Ms SYLVIA HALE: Never any question from anyone that you are aware of?

Mr BEUK: No.

Ms SYLVIA HALE: Under any circumstances?

Mr BEUK: No.

Ms SYLVIA HALE: You have never been questioned. You described your occupation as the IT director for the ALP. Can you tell me what that involves?

Mr BEUK: It is quite broad in terms of information technology. It is not only looking after the necessary requirements for the party office, it is liaising with electoral offices and ministerial offices in terms of what is required from information technology that could support or assist them to conduct their business.

Ms SYLVIA HALE: That would mean that you would, on a day-to-day basis, have access to email streams, incredibly confidential material, stuff that was meant to be kept within the confines of the operations of the Labor Party.

Mr BEUK: In terms of access to material, I have access to the material I have rights to have access to and I respect those particular rights. If you are inferring that somehow I undertake surveillance, well that is not the case.

Ms SYLVIA HALE: No. But there is great confidence reposed in you.

Mr BEUK: Absolutely.

Ms SYLVIA HALE: Do you think it is a question that the head office of the Labor Party is extraordinarily trusting, innocent, naïve, in that here there have been major allegations made about an individual whose personal honesty has been brought into question, that no-one, even though the Premier had found fit to issue instructions, that his Ministers be warned, but no-one thought to tell the ALP head office that they should start asking a few questions?

Mr BEUK: Well, certainly I was not made aware of those allegations. As I said, the first I heard of it was when Mark Ryan had made his allegations here, namely, before the Committee. That is the first I had heard of those particular allegations, absurd as they may be. But certainly no-one—and I suspect that if the party office had been informed of those sort of allegations, I would have thought that they would have brought those allegations to my attention.

Ms SYLVIA HALE: You think it would be a reasonable interpretation to place upon it, that either you people knew there was no basis to those allegations or, alternatively, that in fact these allegations, this web of corruption, was an excuse that came after the event, an excuse that was manufactured in order to justify the failure to approve the LEP? Would you think that would be a possible interpretation?

Mr BEUK: I cannot respond in terms of whether or not things were manufactured or they were not. I certainly was not made aware of any particular allegations and, as you have rightly pointed out, I would have thought that if there was any substance, that that would have been validated in some way by whatever reasonableness was available, even contacting me, given that I am fairly accessible. Yes, certainly those allegations are baseless. That is my personal point of view but what you can draw from that, I think is your own conclusions. I cannot make any reference other than the fact that they are baseless.

The Hon. AMANDA FAZIO: You have told us here today about the meeting you had with Mr Gazal on the evening that he lodged his nomination—

Mr BEUK: Mr Bargshoon.

The Hon. AMANDA FAZIO: Mr Bargshoon lodged his nomination and you also said that you had an earlier meeting with him where, on your own volition, you went and discussed with him his intention to nominate. Do you think that that is a reasonable thing for a branch secretary to do, to talk to a branch member who is intending doing something that would place himself outside the rules of the party?

Mr BEUK: Well, that is reasonable but I did it more importantly as a friend rather than as secretary. Certainly that would be reasonable for someone obviously that you know has been active in the party, to think that they might consider running against an existing endorsed candidate and, more importantly, the Opposition leader. Yes, I think it was important for me to make my views known to him.

The Hon. AMANDA FAZIO: You said to us that you have known Mr Bargshoon for six years or around that?

Mr BEUK: I would say about six, around about that period of time.

The Hon. AMANDA FAZIO: Presumably you have met him quite frequently at your local branch meetings?

Mr BEUK: Absolutely, yes, very active.

The Hon. AMANDA FAZIO: Do you consider his decision to nominate against the endorsed ALP candidate to be out of character?

Mr BEUK: He is under—well, as I said, he is gone through enormous financial strain, given the investment that he undertook at Orange Grove and I think that has personally had a significant impact on him. He is obviously very angry with the party and I suppose you can gauge that from some of the comments. Whether you would describe that out of character or not, he is angry so I suppose under those circumstances people do not necessarily make the most rational decisions but, again, he is entitled to determine his destiny and he is entitled to make that decision.

The Hon. AMANDA FAZIO: You stated earlier that Mr Bargshoon had not named any individuals who had encouraged him to run. Did he give you any indication about who might be assisting him with funding for his campaign?

Mr BEUK: No-one specific. As I said, there were no names. All I can do is assume who would be providing him with funding and I do not think it is appropriate for me to make any assumptions.

The Hon. DAVID OLDFIELD: A few moments ago in answer to a question from Amanda Fazio there was the suggestion that it was not uncommon for Eric Roozendaal to speak to you about matters that would have been in the press in relation to Liverpool council. Mr Roozendaal has been in here as a member of the upper House since June this year. It was clear from your commentary earlier that your conversations about Orange Grove were somewhat well before that date—you said early in 2004, did you not?

Mr BEUK: That is correct.

The Hon. DAVID OLDFIELD: Are you aware of, or are you able to nominate, any significant press coverage of matters relating to Orange Grove that, at the time, would have caused Mr Roozendaal to ask those questions?

Mr BEUK: Look I cannot—no, I cannot, other than I know that the matter had appeared before the court and was going through a court process. I cannot recall any specific reference.

The Hon. DAVID OLDFIELD: But Mr Roozendaal does not get information supplied to him from courts on various things that are taking place, does he?

Mr BEUK: No, but obviously given the significance of the matter—

The Hon. DAVID OLDFIELD: But how would Mr Roozendaal know it was significant?

Mr BEUK: As I said, I think you would have to draw the reference back to council and where it was at in 2003, given the issues associated with the various inquiries—probably even earlier than that, 2002—but more importantly 2003.

The Hon. DAVID OLDFIELD: You have no definitive answer as to why Roozendaal was asking you about this, do you?

Mr BEUK: No, as I said it was approached as, sort of, a matter of fact. It was nothing, as I said, that I would describe that would be out of character.

The Hon. DAVID OLDFIELD: Because I would suggest to you that there was no press around that time at all relating to this matter. There was nothing that would have drawn his attention to it particularly. I just have one more question for you. You told us that you spoke—if I can go back—you believe, to Mr Bargshoon on the phone probably last Tuesday; probably spoke to him on the phone and saw him in person on Thursday, and I think you also said you spoke to him on the phone yesterday, is that right?

Mr BEUK: Correct.

The Hon. DAVID OLDFIELD: Did you forget, during the course of telling us that, that you met him in person last night?

Mr BEUK: Oh yes, I did meet him in person, yes.

The Hon. DAVID OLDFIELD: You did forget.

Mr BEUK: Yes.

The Hon. DAVID OLDFIELD: So you managed to remember the phone call last Tuesday but not that you saw him personally last night?

CHAIR: Is that a "Yes"?

Mr BEUK: Yes, it is.

CHAIR: Thank you, Mr Beuk, for your attendance here today.

(The witness withdrew)

SAMIR BARGSHOON, Proprietor, Bargshoon Cleaning Services, on former oath:

CHAIR: Earlier today at the commencement of the hearing, as I mentioned your appearance here today, which is to respond to adverse mention and also to answer some questions, the Committee notes that you have, as has just been discussed, nominated for the Federal election. The Committee needs to just concentrate on the fact that we are dealing with the approval process for the designer outlets centre rather than the bigger issues of a current Federal campaign.

The Hon. AMANDA FAZIO: Point of order: Madam Chair, what is your basis for making that statement because the Committee did not have a deliberative meeting prior to the hearing commencing this morning? There has been no resolution of the Committee that that area of questioning is out of bounds. In fact, the Hon. David Oldfield raised that issue in questioning Mr Beuk about Mr Bargshoon's candidature in the Federal election campaign, so I am completely at a loss to understand what rationale you are using to try to rule those sorts of questions out of order.

CHAIR: Order! I will answer that question. I think the Hon. Amanda Fazio also mentioned the circumstances of the nomination of Mr Bargshoon for the seat of Werriwa, which is in the context of the circumstances that we are looking at. The reason I read that out at the commencement of the hearing was that I have taken advice from the clerks that we not have the hearing develop into a sideshow in terms of the Federal campaign, but if questions do relate to the circumstances surrounding the Orange Grove issue then, as you yourself already shown by asking certain questions, they would be within the parameter of the inquiry. Okay?

The Hon. AMANDA FAZIO: Thank you. Before we proceed, I have another procedural matter that I would like you to deal with, Madam Chair. At the opening of the inquiry you read out a statement about witnesses abusing parliamentary privilege and making adverse comments about other people. Mr Bargshoon was not present when you did that. I have read the transcripts carefully and on 17 August, on page 68 of the transcript, Mr Bargshoon stated, "I still believe since no-one can sue me I can get out and say in public that I believe that he was a ... crook" in relation to a person he was giving evidence about. Given that Mr Bargshoon has clearly stated on that instance, 17 August, that he was quite happy to abuse parliamentary privilege, I would ask that you read out that statement again to him here today so that we can ensure that he is aware of the fact that he should not be abusing parliamentary privilege in the evidence that he gives publicly to this inquiry.

CHAIR: I am happy to refer to the comments in relation to adverse mentions which I made earlier today.

The Hon. JOHN RYAN: A bit sensitive?

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

The Hon. PETER PRIMROSE: And we look forward to the Chair upholding that.

CHAIR: Mr Bargshoon, have you got an opening statement that you wish to make to the Committee?

Mr BARGSHOON: Yes, I have.

CHAIR: Thank you. Away you go.

Mr BARGSHOON: I just wonder if a friend of mine can read it for me. I have got a flu, lost my voice, and I will be reading it for about an hour. If I can get assistance from my friend?

The Hon. PETER PRIMROSE: Is that Mr Ryan?

Mr BARGSHOON: Anyone from the Committee. I do not mind.

The Hon. PETER PRIMROSE: Yes, Mr Ryan can help him.

The Hon. JAN BURNSWOODS: Or Mr Oldfield.

The Hon. PETER PRIMROSE: Mr Oldfield or Mr Ryan.

Mr BARGSHOON: Even yourself, Peter; I do not mind.

The Hon. PETER PRIMROSE: No. Well, they would be familiar with the text. I am not.

Mr BARGSHOON: I mean, I could read it, but I would be here for about an hour

The Hon. JAN BURNSWOODS: That is all right.

The Hon. PETER PRIMROSE: We have plenty of time.

The Hon. JAN BURNSWOODS: Yes, who cares? You know, we never stick to the time anyway.

Mr BARGSHOON: No problem. I will start.

CHAIR: Okay, yes. If you could proceed, and see how you go, Mr Bargshoon.

Mr BARGSHOON: I joined the Labor Party 17 years ago because I believed in what the Labor Party stood for: standing for the workers, helping working-class people improving themselves.

The Hon. PETER PRIMROSE: Developers.

Mr BARGSHOON: Do not cut me out, please, Peter. I want to finish.

CHAIR: Order!

The Hon. PETER PRIMROSE: Well, you just continue then.

Mr BARGSHOON: Okay. Do not cut me out.

The Hon. JAN BURNSWOODS: There is nothing wrong with your voice when you want to depart from your statement, is there?

Mr BARGSHOON: I am sick and I am here.

The Hon. PETER PRIMROSE: Well, mate, you are sick—

Mr BARGSHOON: Do not cut me out.

CHAIR: Order!

Mr BARGSHOON: Defending the rights of the people who are poor, disadvantaged. I worked to support the Labor Party and I often turned a blind eye to what was wrong because I believed I was working for a good cause, but after what Bob Carr has done to the factory outlets at the Orange Grove, I realised how much that we have been used.

The Hon. AMANDA FAZIO: It has the smell of Flagship Communications about it.

Mr BARGSHOON: Despite our many calls for help, Mr Carr has flushed 450 jobs and 60 small businesses, including mine, down the toilet, just so he could please rich and powerful friends like Frank Lowy and Westfield.

The Hon. JAN BURNSWOODS: What about the rich Mr Gazal?

Mr BARGSHOON: I want to finish, please. Many of my friends are seeing Mr Carr and Labor for what they really are.

The Hon. AMANDA FAZIO: Are these your old friends, or your new friends from the Liberal Party?

Mr BARGSHOON: Let me finish, please?

CHAIR: Order!

Mr BARGSHOON: I will open your eyes to how bad Labor is to its own people. I have been a part of the Labor Party for years and the pictures I gave to the Committee showed that I was a trusted insider, and I know how the Labor Party works. There are still lots of people in the Labor Party who still stand up for the beliefs but there are also many powerful people in the Labor Party who do not. They use people like me, and when they are finished with us, they dump us.

I am here today because Joe Tripodi told me that Bob Carr had told Diane Beamer to screw over Orange Grove because his friend, Frank Lowy from Westfield, did not want it. I heard him say it again to Nabil Gazal that day. Joe Tripodi was my good friend and I cannot believe that he would have said something like that unless he thought it was true. As I said, I have been a trusted operator in the Labor Party for many years. I have been used by both the right and the left wing.

When I joined the Labor Party I was a left winger. I was asked to do things to support left wingers, and I did. One of my first jobs in the Labor Party was to stack branches—Liverpool—to help Paul Lynch win preselection for the seat of Liverpool to beat the sitting right wing member, Peter Anderson. At the time we had the full support from the Labor Party head office to beat Peter Anderson because he was a threat to the leadership of Bob Carr.

I signed up hundreds of people from the Lebanese community of Liverpool into Miller, Liverpool and Hinchinbrook branches of the ALP. I was told by Anthony Albanese at the time, "You get the people. We have the green light from Della Bosca." John Della Bosca, as you know who he is—"They want Peter Anderson out because he was a threat to Bob Carr." He also told me, "Don't attack Craig Knowles and his family because they will be working with head office to support Lynch behind the scenes." If anyone can get access to the record books from the time, they will show that around 1,000 members—most of them Lebanese—were accepted into the party at about the same time.

The Hon. PETER PRIMROSE: This is all in Bob Carr's book.

Mr BARGSHOON: You love that, Peter. They will be in two bulk lots, with receipts made out to Paul Lynch himself. I asked Paul Lynch, "How are you going to pay for these, all of these memberships?" He told me that he would pay for whenever he could, Daryl Melham would pay for some and Anthony Albanese, who was the left's organiser in head office, would pay for the rest. I knew that 600 people from the Lebanese community received tickets that week, and none of them paid a cent in membership fees. Most of them never went to branch meetings, and the ones who did go only went there to sign the books and leave. The ones who did not go to the meetings, me and Paul Lynch would go to their houses once every two months to get them to sign the books. As long as the books were signed five or six times a year, they were entitled to vote.

These people were given all sorts of promises to get them to become members of the Labor Party. They were told they would get moved up the waiting list for a housing commission house, or they would get repairs to their houses, or they were told that they could upgrade their houses by moving into new houses that had been built in Hinchinbrook and Green Valley. Some were promised legal help with compensation cases because Paul Lynch, before he went into Parliament, Paul Lynch was a solicitor. He told people—pardon? I did not hear.

The Hon. AMANDA FAZIO: I did not say anything.

Mr BARGSHOON: I heard you talk—whispering.

The Hon. AMANDA FAZIO: You are paranoid.

The Hon. PETER PRIMROSE: It is the voices.

Mr BARGSHOON: He told people who had insurance or compensation claims that they should move their claims from their current solicitors to his office. He often told them that their solicitors were hopeless and

he could get them twice or three times more for their cases. Some of the people wanted help with immigration cases and Paul made promises to them. These cases were sent to Mrs Jan Primrose who worked in the office of a Federal Member of Parliament, or to the office of Daryl Melham. Lynch won the preselection by six votes, even though some of the people who voted were in Lebanon on the day of the ballot. But after he got elected, Paul dumped these people and did nothing. He could never deliver on his promises.

The Hon. AMANDA FAZIO: No wonder. We were not in government at the time.

Mr BARGSHOON: Hundreds of these people came to me looking for help. I tried to get Paul to help but there were so many of them. Paul then told me, "Sam, tell these people that I've had enough. Tell them they can find a new solicitor and if they want a housing commission house, they have to wait." That is after he got up.

The Hon. PETER PRIMROSE: So you are saying he did not deliver on any of those undertakings?

Mr BARGSHOON: I want to finish the statement.

The Hon. PETER PRIMROSE: Good.

The Hon. AMANDA FAZIO: Why do you not tell us who wrote it, when you get to the bottom of it, too.

Mr BARGSHOON: I want to finish that, and you can ask everything you want. I know who you are very well as well.

The Hon. AMANDA FAZIO: Oh good. I am glad you are so well informed.

Mr BARGSHOON: You were in a couple of our branch stacking meetings, too, do not forget.

The Hon. AMANDA FAZIO: Yes, applying the rules and throwing your mates out.

Mr BARGSHOON: Sure.

The Hon. AMANDA FAZIO: Those that did not have any ID.

Mr BARGSHOON: Anyway, I want to finish this off, please. Some time after that I was encouraged by John Della Bosca to go around collecting evidence about all that bad stuff what went on, to help Paul Lynch win the preselection. I went to many people, with Julia Irwin, collecting stat decs from branch members who told me about the roll books that were taken around to their houses so that they could sign them without going to meetings. They gave us photocopies of passports, which showed that some of the people who voted in the ballot were actually in Lebanon on that day. Total stat decs collected for Della Bosca, 14 in total, were signed off by Julia Irwin. Julia was a justice of the peace. We had all of these evidence and I expect that John Della Bosca was going to kick Paul Lynch out of the party.

Around the same time a right wing seat—I am not sure which one, but I think it was in Wollongong area—was in danger of going to the left wing, so Albanese and Della Bosca made a deal to let Lynch stay in Liverpool; in return, the left agreed to back off in the other seat. Around the same time, a huge faction of the branch stacking war broke out in Fowler when Ted Grace said in 1995 that he was going to retire at the next Federal election. This was when Joe Tripodi asked me to set up a meeting with Nabil Gazal so that he could ask him for a donation. We had signed up 450 members into a new branch called the Parks branch. I remember one of the people who came to the meeting to check off the people who joined the branch on that day was Peter Primrose. I am sure that he remembers that meeting and remembers seeing me there, too.

The Hon. PETER PRIMROSE: Yes. I remember the undertakings you were giving people.

Mr BARGSHOON: Sure. One next step was to find the money to pay to the memberships. A businessman called David Tadeski, who owned a city nightclub, suggested that we ask Nabil for a donation. I took Joe and David Tadeski in my Tarago van to Nabil's little office at Orange Grove. This was long before anything was built on the land, and Nabil's office was the only thing on this great block of vacant land. I rang

Nabil the next day and I set an appointment to see David and Joe Tripodi for the following afternoon. On the way there, David—when I say David, I mean David Tadeski—was telling me on the way about Nabil's background, with the way Nabil gambles, how rich he was. He knew so much about Nabil's background because David was saying that he had a close friend who plays cards with Nabil and that Nabil, money for him was nothing. I introduced Joe and David to Nabil. Joe explained that he wanted money to get people into the ALP branches to stop Alex Sanchez.

The Hon. JAN BURNSWOODS: You wonder what his voice would be like without a flu.

Mr BARGSHOON: I am sorry?

CHAIR: Do not get diverted.

Mr BARGSHOON: Joe knew that this would be a great line for Nabil because Alex Sanchez had protest against Nabil's cinemas in Liverpool complex. Alex was a mate of Paul Lynch at the time, and it was Paul who put Alex in Liverpool council. When I say Paul, again I mean Paul Lynch. Nabil took out a cheque book from his drawer and asked them how much they wanted. Joe told Nabil that a cheque would not be any good; the money had to be in cash because head office would not take a cheque for membership fees. Joe said he can come back in a day or two and pick up the money in cash if Nabil did not have it on him. Nabil said, "Sorry, Joe. The only way I give help—I can help you is by cheque." Nabil said—can I finish please?

CHAIR: Yep.

The Hon. PETER PRIMROSE: Well, off you go, mate. We've heard all this before.

Mr BARGSHOON: I can hear you keep talking in the background and they just—

The Hon. PETER PRIMROSE: Well, get used to it.

CHAIR: Don't worry.

The Hon. JAN BURNSWOODS: This is about the seventy-fifth time we've heard it.

Mr BARGSHOON: Nabil Gazal, sorry—

CHAIR: Order!

The Hon. PETER PRIMROSE: You've been through this before.

CHAIR: Order! Mr Bargshoon, don't get distracted.

Mr BARGSHOON: They just don't want to hear it. They want to confuse me.

The Hon. PETER PRIMROSE: We've heard it all before.

The Hon. PETER PRIMROSE: We've heard it. We've heard it for the last 15 years.

The Hon. AMANDA FAZIO: We don't mind hearing this. It's we don't believe it.

The Hon. JAN BURNSWOODS: We can almost recite it now.

Mr BARGSHOON: A lot of people haven't heard this, I can guarantee you that.

The Hon. PETER PRIMROSE: They read it in the papers. You've been telling this story for years.

Mr BARGSHOON: And I'm not finished yet. It's getting better.

The Hon. PETER PRIMROSE: Off you go.

The Hon. AMANDA FAZIO: Oh wow!

Mr BARGSHOON: Yes. It's getting much better.

The Hon. JAN BURNSWOODS: We're really sorry for you with your cold. Your poor voice is so bad.

CHAIR: Order!

Mr BARGSHOON: That's my problem, and you're not a doctor. Nabil said that he was happy to give the ALP, but he would only give money in cheques because he wanted records for his accountants and for tax. So he never gave them any money. Joe was a very dirty with Nabil—

The Hon. JAN BURNSWOODS: Tax?

Mr BARGSHOON: Could you please—I mean, I want to read this out.

The Hon. PETER PRIMROSE: Well go for it.

Mr BARGSHOON: Joe was—they trying their very best to interrupt me so I don't read this out.

CHAIR: No.

The Hon. AMANDA FAZIO: Keep reading.

The Hon. DAVID OLDFIELD: Keep going.

Mr BARGSHOON: Joe was very—

The Hon. JAN BURNSWOODS: It's the best entertainment we've had for weeks.

Mr BARGSHOON: Joe was very dirty with Nabil after that. It took a long time for him to make up after that. I asked Joe all week after how he went with getting the money for the branches. He explained to me that he got some from Tadeski, David Tadeski, he paid some himself and Eric Roozendaal paid for the rest from money from head office.

The Hon. JAN BURNSWOODS: He's got a fantastic memory, hasn't he?

The Hon. AMANDA FAZIO: Mmm.

Mr BARGSHOON: You're dying to stop me, aren't you?

The Hon. JAN BURNSWOODS: No.

Mr BARGSHOON: You're really dying.

The Hon. JAN BURNSWOODS: We want you to keep going.

Mr BARGSHOON: Years later—

The Hon. AMANDA FAZIO: We want to get to this millennium. Come on.

Mr BARGSHOON: Years later I was used by head office to get even with the Left again. In 1999 I was approached by a journalist called Paul Ramsey who was working with the channel nine program. He wanted me to talk about branch stacking. I asked ALP head office about it before I did the interview. They said that it would be okay. When I say "they", it is head office. They said it was okay, but I should ask them to allow me to have a solicitor at the interview and they should pay for it. That's the journalist, they should pay. They agreed to and I did the interview. The program went to air and in it had Kim Beazley and other people from the ALP talking about branch stacking and I got the DVD here with me today for everyone to see it. I'm happy for you to keep a copy each.

The Hon. PETER PRIMROSE: Good.

Mr BARGSHOON: Three weeks later I was on my own having a drink at the Arch Bar in Liverpool. I saw two blokes looking at me. I made a smart remark to them like—

[Interruption]

The Hon. JOHN RYAN: Keep going.

Mr BARGSHOON: You finished?

The Hon. JOHN RYAN: Keep going.

The Hon. PETER PRIMROSE: Just the idea of you making a smart remark—

The Hon. JOHN RYAN: Just ignore them. Just keep going.

CHAIR: Just keep going.

Mr BARGSHOON: Like, "Who do you think you are?"

The Hon. JAN BURNSWOODS: Well, that's smart.

Mr BARGSHOON: And "I hope that you are not thinking of—"

The Hon. JAN BURNSWOODS: That's a really smart remark.

Mr BARGSHOON: Let me finish, please.

The Hon. JAN BURNSWOODS: Is that the best you can do?

Mr BARGSHOON: "—knocking off my gold chain" that I wore around my neck. The argument got a bit noisy and one of my friends who was a bouncer at the bar picked them up and threw them out. I left the bar about 11.30—

The Hon. JAN BURNSWOODS: Both together, or one at a time?

Mr BARGSHOON: Thank you very much. I left the bar at about 11.30 p.m. I didn't know that they were waiting for me outside. As soon as I walked out I was stabbed and punched in the face by a knuckleduster to my face. I was taken to Liverpool Hospital by an ambulance. A friend of mine from the ALP head office, Tony Beuk, called in to see me a day later after his work, as he normally comes around two or three times a week. He is one of my very best mates till this day. Next day I got a phone call from ALP head office asking if Mark Habib could come to my house and speak to me. Mark Habib and Tony Beuk from head office came to my house that night. I remember they were very nervous and dressed in black suits. They told me to make sure that I didn't have any visitors at home—

The Hon. JOHN RYAN: This is how it was done, guys.

Mr BARGSHOON: They loving that, aren't they?

The Hon. PETER PRIMROSE: I'm really loving it.

Mr BARGSHOON: If anyone comes to visit while—

The Hon. JAN BURNSWOODS: There's a small theatre somewhere that would love this.

Mr BARGSHOON: You're loving it. I know you are.

The Hon. JAN BURNSWOODS: We are. It's fantastic.

The Hon. DAVID OLDFIELD: We plan on getting it on a bigger theatre, actually.

Mr BARGSHOON: Yeah.

The Hon. PETER PRIMROSE: If only you understood—

The Hon. JOHN RYAN: We've got to get through this.

Mr BARGSHOON: If anyone came over to visit while we are driving out, I should call to let them know. That's while they were driving to my house that night; that was Mark Habib and Tony Beuk. When Habib got to my house—when I say "Habib" it's Mark, just in case you don't know who he is. When Habib got to my house he said, "I know that this is not the right time to talk to you about this. But this is beautiful. This will be the story of the year. This is your chance to get your revenge on Paul Lynch." I said that I had been promised this before by John Della Bosca and he lied, and made a deal with the Left instead. Mark Habib said, "Just listen to me carefully, Sam, please." He asked to take photos and he got a camera out of the car and took 20 photos of my bashed-in face with me sitting on my lounge chair. I had six stitches and two black eyes. He told me that, "Tomorrow you will have media all over the house. Don't mention that you had the argument at the Arch Bar." Tell them that three weeks ago I gave an interview to Sunday program then I go to the Arch Bar while having a drink. As I walked out the door these people try to kill me. They aimed for my brain, and they were too short and they only got me on the cheek. I had thousands of dollars in cash, \$5,000 chain and \$30,00 bracelet.

The Hon. AMANDA FAZIO: A chain?

Mr BARGSHOON: Yeah, I'll show it to you if you want.

The Hon. AMANDA FAZIO: Yeah, okay, good.

Mr BARGSHOON: Want to have a look?

The Hon. AMANDA FAZIO: Thank you.

The Hon. JOHN RYAN: It's all right. It's gorgeous.

The Hon. PETER PRIMROSE: It's very nice; very nice.

Mr BARGSHOON: I like that a lot more, I would have showed you that too.

The Hon. JAN BURNSWOODS: I don't know why you're so privileged, Amanda.

Mr BARGSHOON: Now, where was I?

The Hon. AMANDA FAZIO: Because I hadn't seen it before.

The Hon. JOHN RYAN: You were talking about what was in your pocket, I think.

Mr BARGSHOON: He told me—

The Hon. AMANDA FAZIO: You were up to—

The Hon. DAVID OLDFIELD: Yeah, you were up to the valuables you were carrying.

The Hon. AMANDA FAZIO: Yeah.

Mr BARGSHOON: Okay.

The Hon. PETER PRIMROSE: You were about to tell us—

Mr BARGSHOON: I had six stitches—

The Hon. PETER PRIMROSE: —whether you were lying then or lying now.

Mr BARGSHOON: I mean they've lost me. That's what their aim is. He told me that tomorrow—yeah, no, I got to that.

The Hon. PETER PRIMROSE: Yeah.

The Hon. JOHN RYAN: You're right. Keep going.

Mr BARGSHOON: Okay. They got to the gold chain.

The Hon. JOHN RYAN: Yeah.

The Hon. JAN BURNSWOODS: Yeah, you didn't forget that.

Mr BARGSHOON: Then \$3,000 necklace.

The Hon. PETER PRIMROSE: And you just mentioned your brain.

Mr BARGSHOON: Okay. Don't worry. I'm going to mention you, too, in a minute.

The Hon. PETER PRIMROSE: Please do so.

Mr BARGSHOON: But I was not robbed.

The Hon. PETER PRIMROSE: You've already mentioned me once.

The Hon. JAN BURNSWOODS: I'm feeling deprived here.

Mr BARGSHOON: You can all see this on the DVD that I got with me today as well.

The Hon. JAN BURNSWOODS: What, your brain?

Mr BARGSHOON: Your brain. The Labor Party brain. The left wing brain, the right wing brain of the Labor Party.

CHAIR: Okay, just stick to your—

The Hon. PETER PRIMROSE: Stick to your script. Mr Ryan's looking worried over there.

Mr BARGSHOON: I was told to say that I believed that this was related to the interview I gave to the Sunday program three weeks ago because I switched from the Left to the Right. As I said before, I told them, "What's in it for me?" They said it will help me get the revenge on Paul Lynch. That is myself. Head office is telling me. It's Tony Beuk and Mark Habib, but Mark Habib was doing the talking. That would help me get my revenge on Paul Lynch. I said I had been told that before. So Mark told me that I would be backed up by Eric Roozendaal. I told Mark I would only agree to it if Eric agreed to do an interview with Paul Ramsey on the Sunday program. Habib said, "He'll do it." I said, "I want to hear it from Eric himself." So he called up Eric on the phone straightaway and I spoke to him myself. I agreed to do it as long as I would destroy Paul Lynch and I also said to him, "As long as you are aware of everything so that none of us end up in trouble with the police." He said not to worry and that he would get Mark Latham and Julia Irwin as local members to back up the story. You can see Mark and Julia in the DVD I have here today as well—backing up the story, that is.

The Hon. PETER PRIMROSE: Did you report it to the police?

Mr BARGSHOON: Let me finish, please?

The Hon. PETER PRIMROSE: Yeah, I want to know if you reported it to the police.

Mr BARGSHOON: I'll finish, then afterward you can ask me.

The Hon. PETER PRIMROSE: I want to know whether you perjured yourself.

Mr BARGSHOON: I did—

The Hon. JAN BURNSWOODS: What, then or now?

Mr BARGSHOON: I did what they asked and the story ran in the media for the rest of the week. I was surprised how fast it all happened. The next morning I had dozens of reporters on my doorstep. I called Eric at head office for advice. He told me, "Go out, make a short statement and go back inside." That was what I did. A week later the Sunday program ran another story about branch stacking and about me being bashed. Eric Roozendaal gave them an interview and Mark Latham and Julia Irwin provided statements—what I said in the DVD, it's all the proof—which were read out during the program. A few weeks ago I was criticised by Stan Knowles and Bob Carr for trying to sign up 19 new members into Liverpool South branch. I was told I could not do it and that it would tarnish the ALP. Yet only months ago I was asked to branch stack by head office and senior members of the Labor Party, including Mark Latham. A few weeks before—

The Hon. AMANDA FAZIO: Rubbish.

Mr BARGSHOON: I'll give you evidence. There's no rubbish there. You're the rubbish one. A few weeks before—

CHAIR: Order!

The Hon. PETER PRIMROSE: Madam Chair.

CHAIR: Order!

Mr BARGSHOON: They keep interrupting me, Madam Chair. They don't want me to read this evidence. They don't want me to read this for some reason. I must be a threat to them.

The Hon. JOHN RYAN: Has he got much more?

Mr BARGSHOON: I'm nearly finished.

CHAIR: Yep.

Mr BARGSHOON: I'm nearly—that's it.

CHAIR: He's on his final page.

Mr BARGSHOON: I'm nearly finished. There's half a page left. That's it.

CHAIR: Mr Primrose?

The Hon. PETER PRIMROSE: He's—

Mr BARGSHOON: A few weeks before he became—

The Hon. PETER PRIMROSE: —actually committed an offence.

Mr BARGSHOON: A few weeks before he became Labor Party leader Mark Latham asked me to wait until every—

The Hon. PETER PRIMROSE: Madam Chair. Look, I wish to simply seek your guidance—

CHAIR: Mr Primrose.

The Hon. PETER PRIMROSE: —and the guidance of the Clerks. The witness is actually admitting to committing an offence under the Crimes Act, and I believe that he needs to be given some direction—

Mr BARGSHOON: I reported this incident to the police, for your information, and I said to the police at the day of the accident, just to make you happy.

The Hon. PETER PRIMROSE: Yeah.

Mr BARGSHOON: That I was attacked in coming out from the Arch Bar and I was into an argument. And I still ran the story. Okay? Does that answer your question?

The Hon. PETER PRIMROSE: No. I'm seeking—

Mr BARGSHOON: And Liverpool police are aware I've reported this.

CHAIR: Okay. Mr Bargshoon—

The Hon. JOHN RYAN: Okay. Can he just finish?

CHAIR: —can you just finish your statement, please?

The Hon. PETER PRIMROSE: Well, provided he has been warned.

The Hon. JAN BURNSWOODS: He is either perjuring himself now or he was then.

Mr BARGSHOON: Yet only months ago I asked to branch stack—I'm repeating this bit again because that's where they stopped me. Yet only months ago I was asked to branch stack by head office and senior members of the Labor Party, including Mark Latham a few weeks before he became Labor leader. Mark Latham asked me to wait until everyone had left the meeting of the Austral branch of the Labor Party at the Austral Bowling Club. That's where we meet.

The Hon. JAN BURNSWOODS: Past tense, I think.

Mr BARGSHOON: He wanted me to help him find some new members to put into Austral branch and his electoral office branch in the count about 20 members because Paul Lynch put in 20 members and transfers into the Austral branch and joined them up over within the four or five months. As Mark hated Paul Lynch and Paul hated Mark, which, I am sure, you are all aware of that, talking to the Labor Party team. I found him 49 new members.

The memberships were also paid for by head office. Three months ago Joe Tripodi asked me quickly—that was only three months ago and there is evidence of that—to find him members for a new branch in the Campbelltown area, which was to be a new seat. What happened—just to explain a little bit about that—he told me—

CHAIR: No, no, no, no. Can you just keep reading your statement? We can get back to that.

Mr BARGSHOON: Okay. In the Campbelltown area, which was to be a new seat. I employed two members of my cleaning staff to sign up their relatives and neighbours in the Bradbury area—that is an area call Bradbury in Campbelltown. These people went out with Joe Tripodi—that's my two cleaners; my two people who work for me as cleaners—and Graham West. They got 45 new people—that's members when I say "new people"—in two days. None of these people had to pay a cent in memberships. Graham West and Vicki from his office organised a barbecue for them all—for all these new members—after the meeting where they joined up. The meetings were only for them to turn up and sign the books. Me and Joe Tripodi made sure the 45 new members turned out that day. Yeah? I was even there with Joe, by the way, that day. Yeah? For the first time in 17 years I turn up with 19 new members who fill out their own forms—I've got them here as well—and pay their own fees and I'm told that this will damage the Labor Party and branches will be closed to new members.

CHAIR: Okay, thank you.

Mr BARGSHOON: Thank you.

CHAIR: Are there any questions?

The Hon. DAVID OLDFIELD: We can't have people who really pay their own way.

Mr BARGSHOON: I'm happy to table these and I'm happy to table a DVD that's got everything on it.

CHAIR: Thank you—

The Hon. JOHN RYAN: It depends on what you're tabling, Mr Bargshoon.

Mr BARGSHOON: Pardon?

The Hon. JOHN RYAN: You have to name whatever it is you're tabling.

Mr BARGSHOON: I just want a copy because that's all I've got.

The Hon. JOHN RYAN: What's the paper?

The Hon. AMANDA FAZIO: It's his statement. Is that correct, Mr Bargshoon?

Mr BARGSHOON: That's the statement I made, yes. This DVD has everything I mentioned in there about the stacking, the two interviews I done with the *Sunday* program and Julia Irwin and Mark Latham backing me up.

CHAIR: Thank you. The Committee will have a look at that before we decide what to do with it.

Mr BARGSHOON: Okay. That's fine.

CHAIR: Is that the only thing you are tabling apart from your statement?

Mr BARGSHOON: Yep, that's it.

CHAIR: Okay. Thank you.

The Hon. PETER PRIMROSE: What are your plans for questions, may I ask?

The Hon. JOHN RYAN: I suspect the Labor Party is more itching for questions than us.

The Hon. PETER PRIMROSE: No, no—

CHAIR: Have you got some questions?

The Hon. PETER PRIMROSE: Yeah, but we're happy to be—

The Hon. JAN BURNSWOODS: We just want to know what the—

The Hon. PETER PRIMROSE: What the order is.

The Hon. JAN BURNSWOODS: How long you're going and what the order and times are.

CHAIR: Ten, ten and ten. Are there any questions?

The Hon. AMANDA FAZIO: Who's going first? Mr Ryan can go first, as usual.

The Hon. JAN BURNSWOODS: You started to ask a question, didn't you?

The Hon. JOHN RYAN: The only question that arises at the moment for me is that you are telling us the story about how Eric Roozendaal instructed you to do a number of things as a result of that meeting at your home. Are you absolutely certain Mr Roozendaal knew how you acquired your injuries—in other words, that they had come as a result of the pub incident not as a result of a branch-stacking activity?

Mr BARGSHOON: Of course. If you have a look at the DVD, I told Eric on the day I spoke to him on the phone. If you have a look at the DVD when the media came and interviewed me I mentioned to the media I got into an argument by a couple of blokes and that is what I got. It's in the DVD—that I was stabbed.

The Hon. JOHN RYAN: Are you absolutely certain that Mr Gazal did not supply money to assist in branch-stacking activities of the Labor Party?

Mr BARGSHOON: One hundred per cent; 100 per cent—never paid \$1. Nabil doesn't have a problem with helping as long as it's by cheque.

The Hon. JOHN RYAN: In any event, I suppose you can really only refer to the incident with Mr Tripodi—

Mr BARGSHOON: With Joe.

The Hon. JOHN RYAN: There may have been others, I suppose, that you didn't know about, is there?

Mr BARGSHOON: I don't know about Nabil paying anybody or giving anyone any money. Never.

The Hon. JOHN RYAN: You referred to things being paid for by head office. What you mean by memberships were paid for by head office?

Mr BARGSHOON: All the memberships. If someone can get access to the head office books, receipts, numbers of people, you would understand what I am talking about.

The Hon. JOHN RYAN: Did Tony Beuk ever tell you about the circumstances under which he spoke to Mr Roozendaal?

Mr BARGSHOON: Yes, he did.

The Hon. JOHN RYAN: What did he say happened?

Mr BARGSHOON: I was a bit upset at the back when I heard him say the last time he seen me was on Thursday. That's why I wrote a note so you could ask him the question that he was over my house last night for three or four hours. I mean, he's a really close friend of mine. You could laugh.

The Hon. AMANDA FAZIO: And that's how you treat your close friends.

Mr BARGSHOON: You just use this—anyways—

CHAIR: Order!

The Hon. JOHN RYAN: I was asking: What did Mr Beuk tell you about how Mr Roozendaal came to speak to him?

Mr BARGSHOON: He told me—that was a few months ago—Tony Beuk mentioned to me that two people from Westfield—actually one from Westfield and the other one was Mark Ryan; he knew who Mark Ryan was very well—went up to head office to see Eric. He seen them go in but he didn't hear what went on. But after they left he said that Eric called him in the office and he asked him about the Orange Grove incident—issue. The way he was telling me, Tony, what Eric meant that he wanted to screw it over, but Tony said he wouldn't do it. He believed in the centre, he was loyal with the centre and he was lobbying for the centre.

The Hon. JOHN RYAN: When you say "he" do you mean Mr Roozendaal?

Mr BARGSHOON: I mean Tony, yeah. Tony said Eric took it no further.

The Hon. JOHN RYAN: When you said that you were told this a few months ago, were you told it close to the date when it happened or sometime after?

Mr BARGSHOON: That was before the centre—that was during—while it had six weeks to shut down. During that period of time.

The Hon. JOHN RYAN: So it was after—

Mr BARGSHOON: Or actually even before that.

The Hon. JOHN RYAN: So was it before you knew that Ms Beamer was not going to make the LEP?

Mr BARGSHOON: When he told me Diane Beamer and her office, they were still working at the issue. They hadn't completed it. I don't know the dates of that.

The Hon. JOHN RYAN: Okay. Did you have any conversation with Mr Beuk in which he tried to convince you not to run against Mr Latham in the current Federal election?

Mr BARGSHOON: Yes, he did. Tony is a close friend of mine and he was concerned. He kept ringing and ringing and ringing. I wouldn't return his calls at the beginning. He called about 10 times then I felt so guilty for not returning his calls—he was a really good friend of mine, and he still is; nothing is going to stop that—so I got into the car and went over to see Tony.

The Hon. JOHN RYAN: Did he tell you that anyone had asked him to do that or was he doing it of his own volition?

Mr BARGSHOON: No, look, he seemed like he was pretty upset. He was very upset and he was under a lot of pressure from head office. He mentioned to me that head office—like, he was under a lot of pressure from head office. I don't want to really get Tony into any trouble; I don't want to end up getting Tony sacked. But that might save him. He was saying if he couldn't convince me of withdrawing that Tony Beuk would get sacked from the Labor Party head office because they had pressured him. They'd been informed by someone higher up.

The Hon. JOHN RYAN: Is there any chance that he might have told you that because he was trying to add to his story to get you to withdraw? For example, he could have just sort of said, "Look, do it for me if you don't do it for someone else. You know, I'll get sacked if you go ahead with it"? Is there any chance he would have been doing it in that vein?

Mr BARGSHOON: No, Tony is a really honest person. Like—

The Hon. JOHN RYAN: How can you say that he is honest when he sat in front of us and said that he didn't meet with you last night?

Mr BARGSHOON: Because, what it is, the bloke, he's under—he's working for the Labor Party head office. He's just building a huge big house and that's all he needs now is to lose his job. Even head office tried to stop him from coming here.

The Hon. AMANDA FAZIO: That's not true.

Mr BARGSHOON: That is very true.

The Hon. AMANDA FAZIO: How do you know?

Mr BARGSHOON: Because Tony told me. And he told Mark Habib that he will be coming. He told me from his own words from his own mouth.

The Hon. JAN BURNSWOODS: How was he going to achieve that?

The Hon. DAVID OLDFIELD: It's not your turn for questions.

The Hon. JAN BURNSWOODS: How was he going to stop—

Mr BARGSHOON: You can ask him that.

The Hon. JAN BURNSWOODS: I wish you would just stop making up lies.

Mr BARGSHOON: I'm telling the truth and I think that that's what's upsetting you.

The Hon. JOHN RYAN: I am happy to defer for the moment and I will come back if I need to.

The Hon. JAN BURNSWOODS: But your lies are so non-credible.

Mr BARGSHOON: You ask me whatever you want to ask me when your turn comes.

CHAIR: Okay. Sylvia Hale.

Ms SYLVIA HALE: Mr Bargshoon, you described Tony Beuk as your very best mate. He has told the Committee that he rang over a period of three months—made two, three or four phone calls a week—trying to find out the progress of the rezoning. Did he ever tell you anything as to the content of those calls he made to Mr Meagher?

Mr BARGSHOON: That is not in my field. I mean, I don't understand how the council operate and they work. But what Tony did mention to me when this inquiry started, and in the paper it mentioned that Craig Knowles and Bob Carr—I can't remember who—they mentioned something about 70 calls or 60 calls. Tony said to me that he called Diane Beamer's office, I think, 43 times or 46 times.

Ms SYLVIA HALE: Mmm.

Mr BARGSHOON: And he said it was looking good.

Ms SYLVIA HALE: Sure. Did he talk to you about the allegations that were made about him: That he and George Paciullo, there had been this web of influence that had surrounded the Orange Grove approval process?

Mr BARGSHOON: Who? Tony?

Ms SYLVIA HALE: Yes. Did he ever talk to you about these allegations that Mark Ryan had made about him?

Mr BARGSHOON: No, the only time—he spoke twice about Mark Ryan, Tony, to me. Once when he seen him go into Labor Party head office with someone he sort of suggested or thought it was from Westfield because as soon as he left he got called in by Roozendaal to the office and asked about the Orange Grove issue; and the second one was when Mark Ryan had his name on that big sheet. He was really upset over that and he said about Mark Ryan, he bagged him a lot, and he said if Mark Ryan wants to play that way he could play much more dirtier. That's where—he knew Mark Ryan very well.

CHAIR: Mr Oldfield?

The Hon. DAVID OLDFIELD: No, I'm happy at the moment.

CHAIR: Government members?

The Hon. AMANDA FAZIO: Mr Bargshoon, isn't it a fact that you stood to gain \$20,000 a month, or \$240,000 a year, from your cleaning contract at Orange Grove?

Mr BARGSHOON: Gain?

The Hon. AMANDA FAZIO: Yes.

Mr BARGSHOON: Well, I didn't have the chance to gain it because your Government closed it down.

The Hon. AMANDA FAZIO: Is that what your agreement was with Mr Gazal?

Mr BARGSHOON: On the contract—verbal contract—was—do you want it monthly, fortnightly, weekly, daily?

The Hon. AMANDA FAZIO: Monthly will do.

Mr BARGSHOON: Monthly. Yes, it was about \$19,000.

The Hon. JOHN RYAN: He was going to be paid for his work.

Mr BARGSHOON: That's without extras. I mean, when it got busy I got called in—extra cleaners, extra staff.

The Hon. AMANDA FAZIO: So are you talking of a figure for lost income of around quarter of a million dollars a year? Isn't it the case that now that you've lost this quarter-of-a-million-dollars-a-year income stream you've decided to go to war against Mr Tripodi and the Labor Party?

Mr BARGSHOON: Who said I went to war against Mr Joe Tripodi?

The Hon. AMANDA FAZIO: Well—

Mr BARGSHOON: Actually, since he came back from Italy I tried to call him many times. He didn't want—it was him who didn't talk.

The Hon. AMANDA FAZIO: So you're not denying that you've gone to war against the Labor Party.

Mr BARGSHOON: I went to war against the Labor Party—when I say the "Labor Party" I mean people like Mark Latham, people like Bob Carr, people like Craig Knowles, people like Paul Lynch. If I'm running against the Labor Party it doesn't mean that all these people from the Labor Party have to be my enemies. I still got friends in the Labor Party—and you're not one of them.

The Hon. AMANDA FAZIO: Seeing I do not know you very well—

Mr BARGSHOON: You know me very well. You know who I am.

The Hon. AMANDA FAZIO: —I am not distressed by that fact.

Mr BARGSHOON: You use to love me when I used to be working with the left and for Lynch.

The Hon. AMANDA FAZIO: That just shows how much you are not an insider in Labor Party circles. Mr Bargshoon, I refer to your press release dated 16 September 2004 entitled, "Sam Bargshoon takes on Latham in Werriwa."

Mr BARGSHOON: Yes.

The Hon. AMANDA FAZIO: Did Flagship Communications write this for you?

Mr BARGSHOON: Who?

The Hon. AMANDA FAZIO: Did Flagship Communications write this press release for you?

Mr BARGSHOON: Flagship? Never heard of them.

The Hon. AMANDA FAZIO: Did you write the press release yourself?

Mr BARGSHOON: I did not write it myself. I have got contacts, like you have got contacts, and like everyone has got contacts.

The Hon. AMANDA FAZIO: Would you care to tell the Committee who wrote the press release for you?

Mr BARGSHOON: No, this is confidential. It has nothing to do with the Committee who wrote this. I am running for this. It has nothing to do with who wrote it. As long as it is not related to the Committee.

The Hon. AMANDA FAZIO: It is related to the Committee because in the second paragraph you say, "but after what Labor has done to Orange Grove I realise how much we have all been used." So, by your own words it is linked to the Committee's work. Who wrote it for you?

Mr BARGSHOON: These are my words. Someone has done it for me on a computer, a friend of mine. I do not have to tell you who this friend is.

The Hon. AMANDA FAZIO: I think you do.

Mr BARGSHOON: No, I do not.

The Hon. AMANDA FAZIO: Have you discussed media assistance in your campaign with Geoff Egan or David Elliot?

Mr BARGSHOON: I have only met Geoff once or twice through Nabil. I have not spoken to him since.

The Hon. AMANDA FAZIO: Since when? How long ago?

Mr BARGSHOON: Since the Orange Grove issue.

The Hon. AMANDA FAZIO: This is still the Orange Grove issue.

Mr BARGSHOON: Since it closed down. I have not seen him, spoken to him or anything. Before that, I have only spoken to Geoff twice. That would have been about five minutes each time.

The Hon. AMANDA FAZIO: When was the last time you spoke to him by phone?

Mr BARGSHOON: I have never spoken to him since, since the centre shut down. I just told you.

The Hon. AMANDA FAZIO: Were you approached by David Oldfield to run as an independent against Mark Latham in Werriwa?

Mr BARGSHOON: No.

The Hon. AMANDA FAZIO: What about John Ryan?

Mr BARGSHOON: Of course not.

The Hon. AMANDA FAZIO: What about Charlie Lynn?

Mr BARGSHOON: I was not approached by anyone. I have a mind of my own. I am not a Labor Party person any more, to turn around and be told.

The Hon. AMANDA FAZIO: You were expelled from the Labor Party.

Mr BARGSHOON: I was not expelled. I resigned, and I was proud to resign.

The Hon. AMANDA FAZIO: You cannot resign. Your resignation letter has to go before the administrative committee, and under ALP rules you cannot resign in order to avoid the consequences of breaching your conditions of membership.

Mr BARGSHOON: Oh, so you want me back now? I am proud to say that these people from the Labor Party are finished. I am proud to say to all Australia, that is what the Labor Party did for Orange Grove.

The Hon. AMANDA FAZIO: You can put your prop down.

Mr BARGSHOON: I want to put it up. I want all Australians to see this. That is thanks to the Labor Party.

The Hon. AMANDA FAZIO: Who is funding your campaign?

Mr BARGSHOON: I have got a lot of people funding my campaign, for your information.

The Hon. AMANDA FAZIO: Name them?

Mr BARGSHOON: I do not have to name them to you.

The Hon. AMANDA FAZIO: You do, you are under oath.

Mr BARGSHOON: So what?

The Hon. AMANDA FAZIO: So being under oath means nothing to you?

Mr BARGSHOON: If you want to get to an issue, that is, is Nabil Gazal one of them, yes, he is one of them, if that is what you want to get to.

The Hon. AMANDA FAZIO: Has the Liberal Party offered you either donations or in-kind donations?

Mr BARGSHOON: I would never take a dollar from the Liberal Party or any other party, just for your information.

The Hon. AMANDA FAZIO: Mr Bargshoon, are you aware that you have to disclose all donations in monetary terms or in kind, otherwise you would be in breach of the local funding laws?

Mr BARGSHOON: Yes, I am very aware, and I can assure you I have got the best team, just so you can go and let your people know.

The Hon. AMANDA FAZIO: I want to refer to an article in the *Sun-Herald* of 5 September 2004 in which you are quoted as saying:

I never asked for positions or favours. I never asked for anything at all. I just did it because it was what they wanted me to do.

Mr BARGSHOON: Yes.

The Hon. AMANDA FAZIO: Was that not a lie?

Mr BARGSHOON: No, why?

The Hon. AMANDA FAZIO: Because on 16 February 2004 you wrote to the general secretary of the ALP asking:

I trust you will consider my application and endorse me as a party candidate for the next local government elections.

If you are saying you never asked for anything, how do you reconcile that with that letter and that request?

Mr BARGSHOON: Listen, all you have got to do—I am glad you mentioned that.

The Hon. AMANDA FAZIO: No, I want you to answer.

Mr BARGSHOON: I will.

The Hon. AMANDA FAZIO: I want you to answer that.

Mr BARGSHOON: Then let me answer. Mark Habib called me up to the office. He told me to run. He said we need you on our team—

The Hon. AMANDA FAZIO: That is a lie!

Mr BARGSHOON: You check the Labor Party records and see who pays for the union. I was not even in a union.

The Hon. AMANDA FAZIO: That is not true.

Mr BARGSHOON: Yes, it is. Check the records. See who paid for it.

The Hon. AMANDA FAZIO: That is simply not true. You wrote to them asking—

Mr BARGSHOON: And they wrote back—

The Hon. AMANDA FAZIO: How successful has your letter for support been? They did not endorse you because you were so tainted they would not endorse you.

Mr BARGSHOON: They paid for it. They done me a resume. They wanted me to run. Then Mark Habib called me—

The Hon. AMANDA FAZIO: And they did not endorse you.

Mr BARGSHOON: I will finish off, please. Mark Habib called me on my mobile and said, "Sam, we do not want to put you on a burning ticket, because today it has been confirmed by Tony Kelly"—I do not know who Tony Kelly is—"that there is going to be no council" so they are only going to put the people they wanted to burn on the ticket, and one of them was Mark Latham's ex-wife because they wanted to shut her up.

The Hon. AMANDA FAZIO: That is rubbish!

Mr BARGSHOON: That is not rubbish. He said the truth. You are rubbish.

The Hon. DAVID OLDFIELD: Point of order—

The Hon. AMANDA FAZIO: You do not need to be insulting—

Mr BARGSHOON: You asked the question. I am not insulting—

The Hon. DAVID OLDFIELD: Amanda, shut up!

The Hon. AMANDA FAZIO: How dare you speak to me like that!

The Hon. DAVID OLDFIELD: My point of order is that Amanda Fazio is simply arguing with the witness. She is supposed to be asking questions. She is now arguing with them—about matters, I might add, she probably has not any knowledge of.

The Hon. JAN BURNSWOODS: What union was it again?

Mr BARGSHOON: This is the union.

The Hon. JAN BURNSWOODS: What union is it?

Mr BARGSHOON: This is the union. I am happy to table that. You can take a photocopy—

The Hon. DAVID OLDFIELD: What is the name of the union?

Mr BARGSHOON: It is called the United Services Union. What they done, he sent Tony Beuk with me down the street somewhere from Sussex Street. He gave him the money to pay from the Labor Party cards, and you would see that no information was paid on my card. All you have got to do is access the records.

The Hon. JOHN RYAN: You did not pay for it?

Mr BARGSHOON: Not one cent. And they done all my resumes. When I got the call from Mark Habib he told me why they had me off the ticket. Because they did not want to burn me and they put the people they wanted to burn. One of them was Mark Latham's ex-wife, because they wanted to shut her up, because otherwise she was going to blab her mouth off and going to make him look bad for the election.

The Hon. AMANDA FAZIO: Mr Bargshoon, you have said that you are such a successful branch stacker—

Mr BARGSHOON: I am the best.

The Hon. AMANDA FAZIO: You are the best, are you?

Mr BARGSHOON: And I am going to show you in this election.

The Hon. AMANDA FAZIO: You claimed recently you put 69 new members in Austral branch?

Mr BARGSHOON: Yes.

The Hon. AMANDA FAZIO: That you put 45 into a Campbelltown branch?

Mr BARGSHOON: Campbelltown was for Joe and the Austral ones were for Mark Latham.

The Hon. AMANDA FAZIO: You have no evidence of that.

Mr BARGSHOON: The only evidence I have got is with head office.

The Hon. AMANDA FAZIO: You have no evidence of that, and you know the party rules. You can only sign up five at a time—

Mr BARGSHOON: I got the people—

The Hon. AMANDA FAZIO: The branch stacking rules in New South Wales do not allow these sorts of activities—

The Hon. JOHN RYAN: No, but apparently he can sign up—

The Hon. AMANDA FAZIO: I do not need any help from you. If you want to talk about Liberal Party branch stacking, you can talk about what went on in Wentworth.

CHAIR: Order!

Mr BARGSHOON: I want to answer the question, because she is running away. Once you put the 19—

The Hon. AMANDA FAZIO: I am not running away from anything.

Mr BARGSHOON: Once you put the 19, over the 19 they hit the tripwire.

The Hon. AMANDA FAZIO: It is five a meeting.

Mr BARGSHOON: You never followed the rules—

The Hon. AMANDA FAZIO: You do not even know what a rulebook looks like.

Mr BARGSHOON: You never followed the rules. You were in one of our biggest stacks, in Warwick Farm, did you forget?

The Hon. AMANDA FAZIO: That is right, and did the Warwick Farm branch—

Mr BARGSHOON: Do you remember the day I stacked it with 400 or 500 people, and we carried Paul Lynch. You were there.

The Hon. AMANDA FAZIO: I was running the meeting, that is why—

Mr BARGSHOON: You were running the meeting, you were there, a meeting I ordered for you and Paul Lynch.

The Hon. AMANDA FAZIO: Not for me, I have never had anything to do with—

Mr BARGSHOON: What were you at the meeting for?

The Hon. AMANDA FAZIO: I was the general secretary.

Mr BARGSHOON: Oh, general secretary, yeah, sure.

CHAIR: Order! Thank you for attending today.

(The witness withdrew)

(Luncheon adjournment)

GERARD ANTHONY TURRISI, Director, GAT and Associates, Haberfield, on former oath, re-examined:

The Hon. JOHN RYAN: Mr Turrisi, are you familiar with the evidence the Committee has received from Mr Weston, who said that he was responding to some requests from you when he said that this development could not be processed in two weeks? Are you familiar with the memo that we showed you a few weeks ago?

MR TURRISI: I am.

The Hon. JOHN RYAN: Mr Weston told the Committee that the reason he wrote that was that the idea of whether or not the Orange Grove proposal could be processed within two weeks was put into his head by you and he felt the need to respond to that. He does not have the original request from you because he is not sure whether it was written or verbal. Did you ever suggest to Mr Weston or ask him to process his advice and the development within two weeks?

MR TURRISI: I may have asked Mr Weston that question specifically. However, one of the things I think we need to put into context is the history of this application. From what I recall, the application in some form was lodged in February to council—whether as an amended application or as a section 96 modification. From what I understand, it took council until about May to advise the applicant that it needed to be a development application [DA]. That is why a DA was then lodged in June. It is more than likely that I would have had a request from the applicant about whether there was a possibly—given the fact that the application had been with council since February—that we could determine it in a quick timeframe. I may have asked Mr Weston that question—that is, whether or not we could deal with it in that period of time.

The Hon. JOHN RYAN: It is a pretty significant development. Were you asking the question in order to make sure that the answer was no, or because you really were trying to find out whether or not the answer would be no?

MR TURRISI: Fundamentally that is correct. I was asking the question because I would have been asked by the applicant. I would have had no other reason to ask it. It was not uncommon in my role for applicants to ring me to ask, when an application had been in the system for quite a while, why it could not be determined within a period of time. Given I was not involved in the assessment of applications, it was not uncommon for me to ask the question of the officers. Whatever the officers conveyed was what I responded or, alternatively, I would have requested the officer to respond directly to the applicant.

The Hon. JOHN RYAN: Surely you would have been aware that an application like this needed to go on exhibition for two weeks? That would have precluded a two-week turnaround from the start, would it not?

MR TURRISI: That is correct.

The Hon. JOHN RYAN: Would you not have been aware of that straightaway?

MR TURRISI: I probably would not have been aware of that straightaway because, as I said, I never assessed the applications at the council. More than likely I would have got the question and I was seeking clarification from the officers to confirm what the position would have been.

The Hon. JOHN RYAN: Mr Weston also told the Committee that it was most unusual for someone to request him to give an opinion on a development straightaway, virtually on the day it was lodged. Are you familiar with that evidence from Mr Weston?

MR TURRISI: I am.

The Hon. JOHN RYAN: Would you like to make a response?

MR TURRISI: Once again, we must go back to the context. More than likely, in view of the history—given that it had already taken us four months to come to the conclusion that he needed to lodge a DA—I may have asked Mr Weston to make sure, now it was being lodged, that there was nothing else outstanding so that

we did not end up in the situation four or five months down the track of asking for another particular piece of information. As I said the last time I gave evidence, as a general rule, I always encouraged all the officers at the council to try to do a preliminary assessment of applications when they were lodged. Therefore, if there were any issues, we could try to deal with them upfront rather than leave them to the end of the process and have applicants get frustrated. After an application had been with council for six months we would then highlight that we had concerns with the development or what have you. That was my general philosophy. In view of the context and the history of this matter, I may have requested or asked Mr Weston to have a look at it and make sure that he was satisfied that everything was in order.

The Hon. JOHN RYAN: Did anyone at the council—councillor or council staff—ever suggest to you that you should consider this development at Orange Grove linked in some way to a proposal to relocate the council chambers to the Liverpool CBD as part of the Oasis project?

MR TURRISI: Never.

The Hon. JOHN RYAN: Do you know who Murray Douglas is?

MR TURRISI: Yes, I do.

The Hon. JOHN RYAN: Can you explain his role at Liverpool City Council?

MR TURRISI: Mr Douglas was appointed by council—I cannot tell you when—to manage the council's major projects.

The Hon. JOHN RYAN: Would it have been appropriate for him to have been involved in the Orange Grove matter in any way?

Mr BARGSHOON: No.

The Hon. JOHN RYAN: Could you explain to the Committee why not?

Mr BARGSHOON: Because from what I understand and recall his role was to assist the general manager on the Woodward Park project and to assist council on the major projects within the CBD.

The Hon. JOHN RYAN: Are you aware of any allegations or anybody raising concerns with you that Mr Mosca or Mr Gazal were using the Orange Grove development as something of a leverage on the council or using their potential by using Orange Grove as a leverage or their potential participation in a part of the Oasis project as a leverage for Orange Grove and linking them in some way?

Mr BARGSHOON: No.

The Hon. JOHN RYAN: Nobody raised that concern with you?

Mr BARGSHOON: No.

The Hon. JOHN RYAN: You were never instructed to give this development a faster passage or go easy on this development in order to ensure that it did not get in the road of the Oasis proposal?

Mr BARGSHOON: No.

The Hon. JOHN RYAN: Did Mr Douglas have any capacity to direct you or planners in Liverpool council who were considering other matters in any way?

Mr BARGSHOON: Not that I am aware of. He was in a totally different area, so no.

Ms SYLVIA HALE: Mr Turrisi, could you confirm what the hours of operation of the centre were?

Mr BARGSHOON: I could not. I would not have any idea.

Ms SYLVIA HALE: There is no question of the development application being approved without the conditions regarding hours of operation being attached to it?

Mr BARGSHOON: I could not answer that question because, as I said, I was not involved in the assessment of the application. As I previously stated when I appeared the first time, as a director of the department I had 140 staff. I had line managers in place. I personally did not assess applications. Officers would come to me from time to time and ask me questions or developers would ring me if they were frustrated with an issue and ask me questions and then I would go speak to the officers. The specific details of the application I just was not involved with.

Ms SYLVIA HALE: But it would be quite common for a council to approve something by saying that approval is given subject to conditions and one of those conditions might be hours of operation as laid out in another document?

Mr BARGSHOON: That is correct.

Ms SYLVIA HALE: So there would be nothing untoward or unusual about the hours of operation not being spelt out specifically?

Mr BARGSHOON: I would not think so, no.

The Hon. JAN BURNSWOODS: Mr Turrisi, I am anxious to refresh our memories about who you spoke to in those months in 2002 when the council was dealing with this application. Did you speak to Mr Mosca about it?

Mr BARGSHOON: I did speak to Mr Mosca. I do recall speaking to him at the time about the advertising.

The Hon. JAN BURNSWOODS: That would have been—

Mr BARGSHOON: Maybe late October, mid-October.

The Hon. JAN BURNSWOODS: And to Mr Gazal?

Mr BARGSHOON: No, I never spoke to him specifically about the application.

The Hon. JAN BURNSWOODS: And Mr Paciullo?

Mr BARGSHOON: As I said, I spoke to Mr Paciullo at some stage at that latter part of the process just to see whether or not he wanted the matter to go before the council.

The Hon. JAN BURNSWOODS: And Mr Beuk?

Mr BARGSHOON: I do not recall specifically having any direct conversations with Mr Beuk, no.

The Hon. JAN BURNSWOODS: Mr Ryan has just asked you some questions. Have you seen the story in the Herald today about Mr Douglas?

Mr BARGSHOON: No, I have not.

The Hon. JAN BURNSWOODS: I will hand you a copy of the story. You will need to read it but if I take you to the third paragraph you will see what the story reports that Mr Douglas has disclosed to ICAC.

The Hon. JOHN RYAN: That is a report. I think it is alleged to have disclosed, is it not?

The Hon. JAN BURNSWOODS: "Understood" I think is the word in the story.

The Hon. JOHN RYAN: I think it would be fair to say that the Herald may not necessarily be a totally accurate source of what has gone on, for what has happened.

The Hon. JAN BURNSWOODS: If you go to the top of the second column you will see the specific date mentioned is 12 June 2002, that in June 2002 Mr Douglas was dealing with the Gazal-Mosca project in relation to the new council chambers.

Mr BARGSHOON: Yes.

The Hon. JAN BURNSWOODS: Do you have any knowledge of what is in these file notes?

Mr BARGSHOON: No, I do not.

The Hon. JAN BURNSWOODS: Did Mr Douglas have these conversations with you?

Mr BARGSHOON: I do not recall.

The Hon. JAN BURNSWOODS: Do you think it is a coincidence that in the same week that the development application for Orange Grove came in that memo is flowing backwards and forwards amongst others from Mr Weston and Mr Hunt? Do you think it is a coincidence that Mr Douglas was simultaneously talking to Mr Gazal and Mr Mosca about this other project?

Mr BARGSHOON: I do not know. I do not know how to answer that. Mr Douglas was in a different area. Unless he specifically brought it to my attention or gave me a copy of the memos I do not recall.

The Hon. JAN BURNSWOODS: And you did not have any conversation at that time with any of those people I asked you about before about the project in relation to the new council chambers and the piece of land that Mr Gazal owned?

Mr BARGSHOON: In terms of the CBD land?

The Hon. JAN BURNSWOODS: Yes.

Mr BARGSHOON: I had no discussions with them about the CBD land, no.

The Hon. JAN BURNSWOODS: Who did you have discussions with about that?

Mr BARGSHOON: I am sorry, I am confused.

The Hon. JAN BURNSWOODS: You just said that you had no discussions with them about it so I asked you who you did have discussions with about the CBD land.

Mr BARGSHOON: You asked me whether I had discussions with Mr Gazal or Mr Mosca and I said no.

The Hon. JAN BURNSWOODS: Yes, and earlier I asked you about discussions with Mr Paciullo and Mr Beuk too.

Mr BARGSHOON: That was regarding Orange Grove Road.

The Hon. JAN BURNSWOODS: You did not have any discussions about the other matter?

Mr BARGSHOON: No.

The Hon. JAN BURNSWOODS: Were you aware that the two matters had been linked, Mr Gazal's interest in the piece of land that he owned in the CBD and Mr Gazal's interest in Orange Grove?

Mr BARGSHOON: No.

The Hon. JAN BURNSWOODS: Were you aware that Mr Gazal had bought that site in the CBD in November 2001?

Mr BARGSHOON: I was aware he bought it. I cannot tell you what date he bought it.

The Hon. JAN BURNSWOODS: How were you aware that he bought it?

Mr BARGSHOON: Just through the organisation that there were discussions being held with the owner of the property and council officers. I was aware of it in that context.

The Hon. JAN BURNSWOODS: So you were aware of the negotiations?

Mr BARGSHOON: I was aware that Mr Gazal bought the property. I do not know what discussions were about specifically other than that there was a decision of the council to look at the opportunity to relocate its council chambers to the southern end of the CBD.

The Hon. JAN BURNSWOODS: If you were aware of all that, how come you are telling me that you did not have discussions with anyone about it?

Mr BARGSHOON: Once again, I was aware of the discussions but I specifically was not party to those discussions.

The Hon. JAN BURNSWOODS: But you knew about the memorandum of understanding which then did not get signed?

Mr BARGSHOON: No, I am not aware of that.

The Hon. JAN BURNSWOODS: When you got the Orange Grove DA from Mr Mosca were you aware that Mr Douglas was still negotiating with Mr Mosca and Mr Gazal over the relocation of the council chambers?

Mr BARGSHOON: No.

The Hon. JAN BURNSWOODS: So even despite the Herald article from today you do not remember a conversation you had with Mr Douglas about this matter?

Mr BARGSHOON: About Orange Grove Road?

The Hon. JAN BURNSWOODS: No, about the old Cole's site, the CBD site.

Mr BARGSHOON: Not specifically, no.

The Hon. JAN BURNSWOODS: You do not recall Mr Douglas saying to you words to the effect that Mr Gazal would not go ahead with the relocation of the council chambers unless he got approval for the Orange Grove site?

Mr BARGSHOON: No, I do not recall that conversation, no.

The Hon. JAN BURNSWOODS: Do you recall the conversation with Mr Douglas in June 2002 in which he expressed to you his concern about the propriety or the conversation he had with Mr Gazal?

Mr BARGSHOON: Once again, no, I do not recall.

The Hon. JAN BURNSWOODS: Do you recall, again in June 2002 and again in a conversation with Mr Douglas, your saying that the general manager had given you a new DA for Orange Grove and that it was expected to be processed within two weeks?

Mr BARGSHOON: The general manager?

The Hon. JAN BURNSWOODS: The general manager had given you the DA and that it was expected to be processed within two weeks. Do you have any recollection of your saying that to Mr Douglas?

Mr BARGSHOON: No.

The Hon. JAN BURNSWOODS: That is interesting.

The Hon. JOHN RYAN: Madam Chair, may I ask a question of clarification of the witness? You keep using the expression "I do not recall". Do you mean that is possible that these things could have happened and you did not remember it? Or when you say "I do not recall" do you mean it did not happen at all?

Mr BARGSHOON: I would have to say that I do not recall. I could not honestly say to you that I did not. I just do not recall. If I said otherwise I would be misleading you. I just do not recall having those conversations.

The Hon. JOHN RYAN: So is it possible that you did?

Mr BARGSHOON: Mr Douglas and I did talk about matters in the CBD. He may have raised some issues about certain aspects. All I am saying is that I do not recall specifically without something in front of me. If you are saying that there are memos, unless I can see those memos to jog my memory I do not recall off the top of my head.

The Hon. JAN BURNSWOODS: So you do not recall those conversations and you did not read this morning's Herald. Are you aware of the evidence that Mr Weston gave us?

Mr BARGSHOON: I have read the transcript, yes.

The Hon. JAN BURNSWOODS: And you are aware of what he told us about his conversation with you when the DA came in?

Mr BARGSHOON: That is correct.

The Hon. JAN BURNSWOODS: Is it correct that you told him that you wanted this DA dealt with in two weeks?

Mr BARGSHOON: As I explained when I commenced today's evidence, one needs to put it back into the context of the fact that the applicant did lodge something with council back in February and I may have asked—

The Hon. JAN BURNSWOODS: What do you mean "did lodge something"? For a planner you have been amazingly vague, have you not, Mr Turrisi?

The Hon. JOHN RYAN: To be fair, he does not work at Liverpool council any more.

The Hon. AMANDA FAZIO: Stop prompting the witness.

The Hon. JOHN RYAN: He has not had time to check detail. It is a bit hard—

The Hon. JAN BURNSWOODS: Did lodge something. What do you mean by something?

Mr BARGSHOON: My understanding is that there was an amended application or a section 96 modification originally lodged with council back in February 2002. As I said before, from what I recall and from what I understand there was a request around that May period that it could not be dealt with as a modified application and needed to be a development application. So, in the context, the question I may have asked Mr Weston was: In view of the fact that there was something before the council since February what was the opportunity or the possibility for that matter to be determined in that period of time?

The Hon. JAN BURNSWOODS: Mr Weston's memo has the sentence, "Determination will not be issued in two weeks." You say you read the transcript of when we asked him about that. I think you would agree that his version of what you asked him to do was much more specific than what you have just told us.

Mr BARGSHOON: No, I do not believe that is the case.

The Hon. JAN BURNSWOODS: Don't you?

Mr BARGSHOON: No.

The Hon. JAN BURNSWOODS: Perhaps we will have to look at transcripts again. Did you talk to Mr Mosca or Mr Gazal about this DA between February and June?

Mr BARGSHOON: Not to Mr Gazal. I may have had discussions with Mr Mosca at the time when the development application was lodged, probably advising him that he needed to do the development application. But, once again, I probably would need to go through the files to determine that.

The Hon. JAN BURNSWOODS: You may have had conversations with Mr Mosca?

Mr BARGSHOON: I may have had.

The Hon. JAN BURNSWOODS: If you did not have a conversation with him who did you have a conversation with?

Mr BARGSHOON: If I did not have it with him then I did not have the conversation.

The Hon. JAN BURNSWOODS: So somehow this inadequate something in February turned into a fully fledged DA in June, and on the same day it was lodged you spoke to Mr Weston about wanting it done in two weeks but somehow or other there may not have been a conversation with anyone. It is not very credible or convincing is it?

Mr BARGSHOON: As I said, my understanding was that there was an application lodged in that period of time, being in February, and it was not unusual for me to ask questions of the officers as to whether or not something could be determined within a period of time.

The Hon. JAN BURNSWOODS: We are not talking about February; we are talking about 6 June.

Mr BARGSHOON: That is correct. I am just saying that the context is going back to the fact that they did lodge something with council in February and therefore the question would have been derived from the point as to what was the possibility, and the response was that it could not. That is the end of it, because it took another five months subsequently before it was determined.

The Hon. JAN BURNSWOODS: As a senior planner and as Mr Weston's boss what would have made you think that something of this scale could have been determined in two weeks?

Mr TURRISI: As I said previously, it is more than likely I did have a request from the applicant as a possibility. I posed the question, I got the response and that was the end of it.

The Hon. JAN BURNSWOODS: But would you not have known?

Mr TURRISI: When you get asked a question and when you are not dealing with the applications on an everyday basis, you ask questions of the officers in the hope that you understand what the position is so you can then convey to the person the real facts.

The Hon. JAN BURNSWOODS: But you just said five minutes ago, or whatever it was, that you were in charge of this section and you had 140 staff. For someone in such a position of authority and seniority you seem to have been remarkably uncertain about what was before your department, what its status was, what should be done about it, what was possible within two weeks or whatever. It does not sound as if you were a very decisive manager, does it?

Mr TURRISI: That is your opinion.

The Hon. JAN BURNSWOODS: What is your opinion?

Mr TURRISI: I do not agree.

The Hon. JAN BURNSWOODS: Do you think you were on top of the job?

Mr TURRISI: As I keep saying, I was a director. I had corporate responsibilities. I was not involved in the day-to-day running of the organisation.

The Hon. JAN BURNSWOODS: But you were the one who asked these questions. If you were not involved in the day-to-day running, why were you asking Mr Weston to tell you, as a matter of urgency, whether this DA could be dealt with within 14 days?

Mr TURRISI: As I said, as a director from time to time you have applicants who would ring you because they would want to speak to the director and ask those questions specifically of the director.

The Hon. JAN BURNSWOODS: So who rang you?

Mr TURRISI: As I said to you, it is more than likely that it was Mr Mosca who would have contacted me and posed the question to me, which is why I then posed it to Mr Weston.

The Hon. JAN BURNSWOODS: But you do not have any recollection?

Mr TURRISI: No, not specifically, other than the fact that if Mr Weston had said that I asked him the question, it is more than likely I probably did. I am not denying that I did not ask him the question as to whether or not the application could have been assessed but it is once again in the context of the fact that there was something with the council back in February.

The Hon. JAN BURNSWOODS: Because there was something with the council back in February, on 6 June you asked Mr Weston if something could be done in 14 days. It does not really hang together, does it? Four months after February you ask whether something can be done in 14 days but you do not remember why you asked it or who asked you to ask it?

Mr TURRISI: Well, I have—I feel like we are going around in circles here. As I said, it is more than likely that I would have had a request from the applicant in view of the fact that the application—that there was documentation lodged back in February, being an amended application, and once again I keep saying: I posed the question to Mr Weston on the basis that I was probably asked the same question.

The Hon. JAN BURNSWOODS: The DA forms shows that the applicant did not pay a notification or advertising fee, yet the advertisement was placed. Why did the council pay for the advertisement?

Mr TURRISI: I have no idea.

The Hon. JAN BURNSWOODS: On the assessment report prepared by Mr Hunt there is a handwritten note, which reads, "No advertising conducted to date. Awaiting GT's—I assume that is you—discussions with councillors and LM". Which councillors did you speak to regarding the need for advertising?

Mr TURRISI: As I have previously said, I remember having a conversation with the mayor informally regarding whether or not he felt that this matter would need to go to council.

The Hon. JAN BURNSWOODS: What does LM refer to?

Mr TURRISI: I am not sure.

The Hon. JAN BURNSWOODS: "Awaiting GT's discussions with councillors and LM".

Mr TURRISI: I do not know.

The Hon. JAN BURNSWOODS: Is that Lord Mayor?

Mr TURRISI: It might be.

CHAIR: Is this a document that the Committee has got?

The Hon. JAN BURNSWOODS: Quite frankly, Madam Chair, I cannot remember. We certainly have a number of documents with Mr Hunt's signature on, but whether we have this one or not, I do not know. So you can confirm for us then that the councillors were aware of the application?

Mr TURRISI: There was a memo that would have went to the councillors as part of that normal process to advise them when an application is advertised, so there would have been a memo that was sent to councillors, yes.

The Hon. JAN BURNSWOODS: So the councillors could not deny that they knew that this DA was proceeding?

Mr TURRISI: Well, the councillors would have had a memo advising that there was a DA being advertised, yes.

The Hon. JAN BURNSWOODS: So they would have known?

Mr TURRISI: They would have known.

The Hon. JAN BURNSWOODS: We seem to have had a lot of confusion about that. Getting back to this request to deal with the DA in two weeks—and remember, Mr Weston said that in 34 years in local government he had never had such a request before—did that come to you from the then general manager, Brian Carr?

Mr TURRISI: No, I do not recall. I do not think so.

The Hon. JAN BURNSWOODS: The request to deal with it in two weeks.

Mr TURRISI: No, I do not think so.

The Hon. JAN BURNSWOODS: So you do not really know who it came from or who it came through?

Mr TURRISI: No, not specifically, no.

The Hon. JAN BURNSWOODS: How did you relay your request to Mr Weston?

Mr TURRISI: More than likely it would have been verbal.

The Hon. JAN BURNSWOODS: What do you mean "more than likely"? Was that the way you normally operated?

Mr TURRISI: If the question was done in a general sense, which I would assume it probably was when I asked questions about timing, it would probably have just been done verbally.

The Hon. JAN BURNSWOODS: So there would be nothing on the file?

Mr TURRISI: There may not, unless there is. I cannot recall.

The Hon. JAN BURNSWOODS: Would that be deliberate on your part, to make sure there was nothing on the file?

Mr TURRISI: No.

The Hon. JAN BURNSWOODS: When Mr Weston told you that the DA could not be approved under the LEP and could not be assessed within 14 days, what did you do then?

Mr TURRISI: Well, I do not believe that Mr Weston said to me that it could not be approved.

The Hon. JAN BURNSWOODS: No, I said not be approved within 14 days. I am referring to his memo to you of 6 June?

Mr TURRISI: Nothing. I mean, as I said, I asked a question, I got the response and that was the end of it.

The Hon. JAN BURNSWOODS: What did you then say to Mr Hunt?

Mr TURRISI: Nothing, I don't think.

The Hon. JAN BURNSWOODS: Did you talk to Mr Hunt about this DA?

Mr TURRISI: As I said previously, at different stages Mr Hunt would come and speak to me about different aspects of it.

The Hon. JAN BURNSWOODS: Would it be true that you told Mr Hunt to report directly to you and to bypass Mr Weston?

Mr TURRISI: No, I would not have asked Mr Hunt to bypass Mr Weston.

The Hon. JAN BURNSWOODS: So what would you have asked Mr Hunt?

Mr TURRISI: In what context?

The Hon. JAN BURNSWOODS: Well, we have heard evidence from Mr Weston that after that memo of 6 June he had nothing further to do with this application, even though in the chain he was between you and Mr Hunt. Are we to assume from that that you asked Mr Hunt to report directly to you?

Mr TURRISI: No, I never said to any officers at any time that they should just directly report to me on any of their matters.

The Hon. JAN BURNSWOODS: So how do you explain that after that Mr Weston was kept in ignorance?

Mr TURRISI: I have no idea. I cannot answer that.

The Hon. JAN BURNSWOODS: Do you think that Mr Hunt just decided not to talk to Mr Weston?

Mr TURRISI: I cannot answer that. I do not know.

The Hon. JAN BURNSWOODS: So you did not suggest to Mr Hunt that he should bring matters about this DA to you?

Mr TURRISI: No.

The Hon. JAN BURNSWOODS: How would you explain the restructure under which Mr Weston was made redundant?

Mr TURRISI: What do you mean how do I explain?

The Hon. JAN BURNSWOODS: You were his supervisor.

Mr TURRISI: Yes. There was an organisational restructure across the whole council and there was an effort to reduce the number of managers which the organisation had because the view was that the organisation was top-heavy in terms of managers so there was, as I said—

The Hon. JAN BURNSWOODS: How come Mr Weston was picked on?

Mr TURRISI: He was not picked on specifically. As I said, there was the restructure done of the whole organisation and opportunities to see as to whether or not we could reduce the number of managers.

The Hon. JAN BURNSWOODS: So he was chosen on your recommendation?

Mr TURRISI: He was not chosen on my recommendation. It was not about individuals. It was about how we could group the organisation in terms of delivering the specific outcomes.

The Hon. JAN BURNSWOODS: Who made the decision to get rid of Mr Weston?

Mr TURRISI: I understood he took a voluntary redundancy.

The Hon. JAN BURNSWOODS: When his position was abolished.

Mr TURRISI: His position was never abolished. We were going through the process about creating the restructure and I understand at some stage he decided that he wanted to take a voluntary redundancy.

The Hon. JAN BURNSWOODS: Just like that?

Mr TURRISI: That is my understanding.

The Hon. JAN BURNSWOODS: But you did say you read the transcript of his evidence.

Mr TURRISI: I have read his transcript.

The Hon. JAN BURNSWOODS: Would you agree that that was not how he presented the issue?

Mr TURRISI: Look, I mean, he has expressed a view. I do not know whether it is the view I would have.

The Hon. JAN BURNSWOODS: What do you mean you do not know if it is the view you would have?

Mr TURRISI: It is not the view I would have in terms of the course of events that occurred.

The Hon. JAN BURNSWOODS: Why do you think you got rid of him?

Mr TURRISI: As I said, I did not get rid of him. He left of his own accord under a voluntary redundancy.

The Hon. JAN BURNSWOODS: But that was because his position was chosen for—

Mr TURRISI: I mean, Mr Weston was entitled to apply for the position like any of the other managers the restructure was affecting. He was no different to any of the other managers.

The Hon. JAN BURNSWOODS: How many of their jobs went?

Mr TURRISI: Off the top of my head I do not know. I would need to see the restructure and I think even after I left, the restructure has still had not been endorsed or fulfilled.

The Hon. JAN BURNSWOODS: I do not think I have any more questions. Mr Turrisi does not seem to get more precise.

The Hon. JOHN RYAN: If you read Mr Weston's transcript would you be aware of the fact that he told the Committee that his memo to you on 6 June was meant to be interpreted as the proposal at Orange Grove could not be approved under any circumstances. Did you understand that from his memo when you read it?

Mr TURRISI: No.

The Hon. JOHN RYAN: Did Mr Weston ever tell you that plainly, I think he said, in the corridor, verbally, that he made it absolutely clear to you that he did not think that Orange Grove could be approved under any circumstances, without significant modification, as factory outlets?

Mr TURRISI: As I understand, he indicated that after he prepared the memo he never spoke to me about it.

The Hon. JOHN RYAN: Were you aware that he might have spoken to Mr Hunt and said to Mr Hunt that he did not think it could be approved?

Mr TURRISI: Other than what I have read in the transcript.

The Hon. JOHN RYAN: If he said he made it that clear in his memo, I suppose the question arises: How did his clear advice that it could not be approved turn into a DA, which was approved?

Mr TURRISI: Look, I mean, from what I understand that memo was prepared. As I said, my view in reading and interpretation is that memo does not specifically say that the activity is prohibited. Mr Hunt subsequently did send a letter, I think it was approximately a week later, which clarifies that they wanted additional information, of which one of those issues was the issue associated with permissibility. All I can then say is that obviously the applicant provided sufficient information to Mr Hunt to satisfy himself on that point.

The Hon. JOHN RYAN: After you got advice from Mr Weston, why did you not leave the project with him? Why did you allocate it to Mr Hunt?

Mr TURRISI: I do not think I allocated the application to Mr Hunt. It would have been allocated through the system, whoever the appropriate officer it should have been given to as part of the area-based system.

The Hon. JOHN RYAN: So why did you ask for advice from Mr Weston then?

Mr TURRISI: Because he was the manager of the planner, so I would have gone to Mr Weston initially to ask him the question because I would not have known who the application was allocated to.

The Hon. JOHN RYAN: I see, so it might have already been allocated to Mr Hunt prior to you asking this question?

Mr TURRISI: Yes, it may have been. I am not sure.

The Hon. JOHN RYAN: Were you aware of any representations made to the council by Mr Tony Beuk in relation to the Orange Grove proposal?

Mr TURRISI: In terms of the development application?

The Hon. JOHN RYAN: Anything to do with it at all. Were you aware of Mr Beuk's view? Mr Beuk has told us this morning, for example, that he has always supported the factory outlets. Were you aware of that?

Mr TURRISI: Not specifically. He did not convey any view to me while the application was in the system as to what his position was with it.

The Hon. JOHN RYAN: Do you have a relationship other than purely business with Mr Beuk? Do you have a friendship or do you share recreational activities with Mr Beuk?

Mr TURRISI: We do not do anything socially, no. Our relationship while I was at the council was professional and we still have not done anything socially, no.

The Hon. JOHN RYAN: Are you aware of suggestions made around the council that there were people who were council planning staff who regarded themselves as "working for Mr Beuk"?

Mr TURRISI: No, I was not aware of that.

The Hon. JOHN RYAN: Did you ever store a boat on property owned by Mr Beuk?

Mr TURRISI: Yes I did, for a period of two to three months.

The Hon. JOHN RYAN: When did that happen?

Mr TURRISI: Probably around four to five years ago.

The Hon. JOHN RYAN: I have never been a councillor, but some people would say that it was a bit unusual that one of the council staff, albeit a senior one, would seek such a favour from one of the elected councillors. Was Mr Beuk an elected councillor at the time?

Mr TURRISI: He was.

The Hon. JOHN RYAN: You said that you only had a professional relationship with him. How is it possible that you would be storing your expensive gear at his place, given that you only had a professional relationship with him?

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Mr TURRISI: Well, I was aware that Mr Beuk was living on a large property, and I asked him as to whether he had a problem if I could just keep my boat on his property until I worked out where I could permanently locate it, and he said he did not have a problem with that, and it was left at that.

The Hon. JOHN RYAN: Did you seek other people's—did you make a request of other people when you were looking for—

Mr TURRISI: No.

The Hon. JOHN RYAN: How did you come to know that Mr Beuk had a large property?

Mr TURRISI: Well, because, as a councillor, I knew when he lived.

The Hon. JOHN RYAN: Was there anything further to your relationship with Mr Beuk, other than storing your boat at his place for a period of time?

Mr TURRISI: No.

The Hon. JOHN RYAN: I mean, it has been suggested that Mr Beuk had the capacity to direct you in some way because of a friendship relationship with you.

Mr TURRISI: No, on the contrary.

The Hon. JOHN RYAN: Did Mr Beuk ever use your boat?

Mr TURRISI: No.

The Hon. JOHN RYAN: Did he ever go out with you in it?

Mr TURRISI: No.

The Hon. JOHN RYAN: And you had no other social engagements with Mr Beuk, other than formal council ones?

Mr TURRISI: That is correct.

The Hon. JOHN RYAN: You said that you had had some discussions about this matter with Mr Murray Douglas. I am wondering why Mr Douglas would have to speak to you about it at all, given that he had a separate operation that was separate and distinct from you. What is the reason why Mr Douglas would have to interact with you at all?

Mr TURRISI: Once again, I am trying to recall those possibilities, but the reality was that he was not involved in the CBD project, and obviously, you know, we did talk about the CBD projects, which officers were involved in, so there was interaction between Mr Douglas and myself on CBD matters.

The Hon. JOHN RYAN: On or about 6 June or a week or so after that, do you recall having a meeting with Mr Frank Mosca about the Orange Grove proposal?

Mr TURRISI: I am sorry, when was that?

The Hon. JOHN RYAN: Around in June, after he had launched the development application. Do you recall having a meeting with Mr Mosca?

Mr TURRISI: No, I do not.

The Hon. JOHN RYAN: You do not recall indicating to Mr Mosca that there was not much chance of the Orange Grove matter being approved?

Mr TURRISI: No, I do not recall having a conversation, no.

The Hon. JOHN RYAN: Did you ever advise Mr Mosca that it was going to be something of a challenge to get this approval—to get Orange Grove approved on the site?

Mr TURRISI: I mean, I conveyed it—and I have stated previously—that I was certainly concerned about the potential economic impacts that that activity may have had on CBD. And I was—once again, I did have conversations with Mr Hunt about ensuring that, in the assessment of his application, he specifically addressed that issue because that was probably the only issue I saw from the surface which was of enormous importance. And so, if there was any context or any discussion from Mr Mosca, it probably could have been in that context.

The Hon. JOHN RYAN: Do you recall having meetings with Mr Mosca where Mr Mosca would bring to you a fairly large list of things that he wanted to discuss with you—because he obviously had a number of projects that he was supporting or was involved with in Liverpool council. Do you recall having meetings of that nature at which he would go through an agenda of things?

Mr TURRISI: Not an agenda. I mean, it was not uncommon if I was meeting him on a project that he might raise another matter under that meeting, or we would talk and he would say, "While you are here, can we speak about this other application", or something of that nature, yes. But it was not a specific agenda.

The Hon. JOHN RYAN: When you got your reply from Mr Weston to your questions that you were posing, I think on behalf of Mr Mosca, how did you convey that information to Mr Mosca and how did he get the information from Mr Weston?

Mr TURRISI: I cannot recall. If I did not convey it, it may have been Mr Hunt who conveyed it. As I said, sometimes I would be asked questions by applicants and, depending on circumstances, if I had the time, I would personally respond. If not, I would ask the officers to respond on my behalf. So I cannot tell you whether I specifically responded.

The Hon. JOHN RYAN: Mr Turrisi, I am trying desperately to be sympathetic. However, I have to say that you do use the expression "I do not recall" an awful lot. I know that there are a lot of development applications at Liverpool council, but I cannot believe that you would not remember any meeting that you had at all. Can you offer some explanation as to why? Given that this particular development application did eventually acquire something of a profile, you would remember some of that, and there were in fact other short inquiries conducted by other general managers about it. Suddenly you cannot remember meeting Mr Mosca around June shortly after this thing was approved and giving him some information about its chances of being approved in its current structure.

Mr TURRISI: I do not remember having a meeting specifically with Mr Mosca in June regarding it.

The Hon. JOHN RYAN: If you held meetings with Mr Mosca, would you normally—would they normally take place in your office?

Mr TURRISI: Yes, we would take that at the council, yes.

The Hon. JOHN RYAN: Did you usually take notes of the discussions and file them?

Mr TURRISI: Not always.

The Hon. JOHN RYAN: Did you ever?

Mr TURRISI: No.

The Hon. JOHN RYAN: Never. So you do not recall other things, but you can remember absolutely certainly that you never took notes.

Mr TURRISI: No.

The Hon. JOHN RYAN: I am compelled to ask you questions in this way.

Mr TURRISI: Sure, I understand. I mean, generally speaking I always would have an officer with me when I would meet, and therefore I did not see it is necessary for me to take notes.

The Hon. JOHN RYAN: So there was an officer taking notes?

Mr TURRISI: Usually there was an officer with me when I spoke to him.

The Hon. JOHN RYAN: You told him to file his notes?

Mr TURRISI: I would assume they would be put on file.

The Hon. JOHN RYAN: So it is likely that, if you had any meetings with Mr Mosca on or around the time that this development application was first lodged and you received no response from Mr Weston about the chances of approving it, for example, within two weeks, you would have some note of that left somewhere on file in the council?

Mr TURRISI: That is correct.

The Hon. JOHN RYAN: I agree with you that Mr Mosca has in fact told this Committee that he was somewhat irritated that the council had originally dealt with a previous application, I think to amend the usage, which had been with the council for some four months, and he discovered that it was not going to be approved. I do recall his telling the Committee that he was irritated about that. Do you recall him putting some pressure on you after that—given that the council had, in his view, not considered this thing very efficiently—that he wanted you to speed it up? Obviously at some stage or other I think the council had to inform him that it was not possible to deal with his application in that way and that a separate development application had to be lodged. Do you recall him putting some pressure on you to speed it up as a result of the fact that it have had already been with the council for four months and gone nowhere?

Mr TURRISI: Look, the answer to that is yes. I mean, the fact was that I said before in the context that the application had been—or there was documentation in some form with the council, being the amended application. And, yes, I was aware that he was quite frustrated at the fact that we then decided to say the development application was in, and obviously he would want the application to be dealt with as quickly as possible. That is why I am saying that I would have asked Mr Weston, as the manager, as to the possibility of whether or not it would be assessed.

The Hon. JOHN RYAN: I think Mr Mosca has told me on other occasions that he did hold some meetings with Mr Douglas. Did Mr Douglas ever come back to you after any of those meetings that he held with Mr Mosca and consult you about any of Mr Mosca's development applications at all?

Mr TURRISI: In terms of the CBD development application?

The Hon. JOHN RYAN: Any.

Mr TURRISI: Okay. I mean, Mr Douglas probably did speak to me on occasions with development applications in the CBD, as I said before, and some of those would have been Mr Mosca's.

The Hon. JOHN RYAN: Were you aware of any—well, I think it is the worst kept secret in the world that there appears to be—and I am not sure of its form, Mr Turrisi, so I cannot tell you exactly what the form is. But given that you are before us now and that we might see Mr Douglas at a future time, I am going to have to guess what his allegation is. But let me just have a guess. Are you aware of any allegation that Mr Douglas might have put to you that Mr Gazal and Mr Mosca, since they were involved in a key part of the Liverpool CBD relocation of council chambers, I suppose—I do not know—that they were somewhat, or could have been considered, important to the future of the whole Oasis project. I think it has been put that Mr Gazal and Mr Mosca might have apprehended how important the Oasis project was to the council generally, and therefore they might have said, "Look, we want to give our application at Orange Grove an easy passage in order for us to cooperate with the Oasis project." Did you have any pressure at any time put on you that would have been consistent with that sort of allegation? As I said, I am entirely guessing and making inferences from what I have seen in the media, so I am just putting it to you: Are you aware of any sort of scheme like that? Are you aware of any directions given to you that would be consistent with that possibility?

Mr TURRISI: No.

The Hon. JOHN RYAN: None at all?

Mr TURRISI: No.

The Hon. JOHN RYAN: You do not think Mr Douglas approached you with a view to asking you to race things through in order to facilitate? Coming to you saying, "Look, this is important for the Oasis project. You have really got to—", you know. Was that proposition never put to you?

Mr TURRISI: No.

The Hon. JOHN RYAN: By the same token, I suppose, to be fair—and again, I am making inferences—was it ever suggested that Westfield might have used their capacity to challenge this development application [DA] as a bargaining chip for things that they might have wanted with Liverpool council in terms of the reorganisation of their development at all?

Mr TURRISI: I could not answer that. I was not involved.

The Hon. JAN BURNSWOODS: Just a couple more questions about the handling of this DA. I think Mr Ryan has already asked you some questions. Mr Hunt was allocated this DA without a DA allocation meeting?

Mr TURRISI: I could not tell you. I do not know.

The Hon. JAN BURNSWOODS: Well, there is a note on the development application assessment to that effect.

Mr TURRISI: Right.

The Hon. JAN BURNSWOODS: That there was no DA allocation meeting. Why would that have been the case?

Mr TURRISI: Once again, I do not know. I was not involved in allocating the application.

The Hon. JAN BURNSWOODS: Who was?

Mr TURRISI: That was done through an allocation meeting, as far as I can recall.

The Hon. JAN BURNSWOODS: But there was no allocation meeting. The file note says that there was no allocation meeting.

Mr TURRISI: I cannot answer that. I do not know.

The Hon. JAN BURNSWOODS: But should you not know?

Mr TURRISI: No. As I said, once again, I did not get involved in the day-to-day running of the department.

The Hon. JAN BURNSWOODS: But you are the one who gave the DA to Mr Weston and asked whether it could be dealt with in two weeks.

Mr TURRISI: No. I asked a question of Mr Weston. I did not give him the DA.

The Hon. JAN BURNSWOODS: It is a question which does rather suggest that you were involved. You said, "Can this be dealt with in two weeks?"

Mr TURRISI: I am not—I asked—once again in the context of what I have been explaining from the beginning, I would have asked Mr Weston the question, and I got the response, which was no.

The Hon. JAN BURNSWOODS: The response in his memo?

Mr TURRISI: Yes.

The Hon. JAN BURNSWOODS: So who did give Mr Weston the DA? He got a DA in his hands, and you were asking these pretty important questions about it.

Mr TURRISI: I do not know.

The Hon. JAN BURNSWOODS: Why would Mr Hunt, who had actually been with the council for less than a month at the time, have been allocated such an important DA?

Mr TURRISI: Well, he was the senior planner for the area.

The Hon. JAN BURNSWOODS: Mr Hunt had responsibility for DAs for the Liverpool CBD.

Mr TURRISI: And central area.

The Hon. JAN BURNSWOODS: Is Orange Grove in that area?

Mr TURRISI: It is part of the central area. It is—

The Hon. JAN BURNSWOODS: Are you sure? Are you sure it was part of the area that Mr Hunt had formal responsibility for?

Mr TURRISI: As far as I recall, yes.

The Hon. JAN BURNSWOODS: But before you said it was part of his area, now we are back to as far as you recall.

Mr TURRISI: The answer is yes.

The Hon. JAN BURNSWOODS: Mr Hunt recommended that the DA be approved prior to any advertising, as we know. Do you think it is proper to recommend a DA being approved prior to advertising?

Mr TURRISI: As—my understanding is that it went through. He had assessed the technical issues and he was satisfied with the position in terms of recommending approval.

The Hon. JAN BURNSWOODS: The question I actually asked you was do you think it is proper to recommend a DA being approved prior to advertising?

Mr TURRISI: I do not think it is improper to have a position as to what you are more than likely going to be recommending.

The Hon. JAN BURNSWOODS: But you had Mr Weston's memo, saying that it should be advertised before approving the DA.

Mr TURRISI: There was. That is right. There was a memo which said that.

The Hon. JAN BURNSWOODS: But you did not care whether that was done or not?

Mr TURRISI: No, I did not say that at all.

The Hon. JAN BURNSWOODS: Well, I just asked you whether you thought it was proper to recommend prior to advertising, and you said, well, yes, in theory, if other things were done before this. But then when I say to you that Mr Weston had already pointed out to you that it needed to be advertised, you were happy to ignore Mr Weston's memo.

Mr TURRISI: No. I did not ignore Mr Weston's memo.

The Hon. JAN BURNSWOODS: You did not act on it.

Mr TURRISI: No, because I was not assessing the application. It was being assessed by the officers.

The Hon. JAN BURNSWOODS: But Mr Weston wrote the memo to you, as his superior.

Mr TURRISI: Yes.

The Hon. JAN BURNSWOODS: It is a bit hard sometimes for us to understand just what your role really was. You get a memo written to you by someone whose superior you are. They make a whole lot of points about this DA—basically saying that it does not fit within the zoning, cannot be done with in two weeks, and has to be advertised.

Mr Hunt then goes ahead and essentially makes it fit within the zoning, even though unlawfully, advertisers it at the very last minute after writing to Mr Mosca for draft approval and so on and so on. All of these the regular steps happen, all of which started off with you as the person in charge of this area of 140 people. Getting a memo, spelling all these things out, but somehow you don't think you have any responsibility. Would that be a fair summary of the situation?

Mr TURRISI: No, I don't believe that's the case. As I said previously, my involvement with the application was not on a day-to-day basis, and I did not set the application. As I said, the questions asked of Mr Weston as to those particular questions were asked. He responded. It then went to the—

The Hon. JAN BURNSWOODS: But then you ignored—

Mr TURRISI: But I didn't—

The Hon. JAN BURNSWOODS: —what he was saying. You are asking the questions. He responded. You didn't like his response so you ignored he is response.

Mr TURRISI: Well, then why was a letter prepared by Mr Hunt a week later to the applicant asking for all that information, which was contained in the memo that Mr Weston prepared?

The Hon. JAN BURNSWOODS: I did ask you before why it was that you ensured that Mr Hunt reported directly to you, bypassing Mr Weston, but you seem to be as vague on that as you are on many other things.

Mr TURRISI: Well, as I said, I do not think I am.

The Hon. JAN BURNSWOODS: So how could you actually know the DA was there in the first place?

Mr TURRISI: More than likely I was contacted by the applicant.

The Hon. JAN BURNSWOODS: So we come back to Mr Mosca egg in?

Mr TURRISI: More than likely, yes.

The Hon. JAN BURNSWOODS: But, again, you don't recall, it's just more than likely?

Mr TURRISI: That's correct. I mean I don't go through the council applications every month to see what applications can be and came out.

The Hon. JAN BURNSWOODS: But this was a pretty important one.

Mr TURRISI: Yeah. My responsibility in the organisation was not only the development control. I mean I had environment, I had transport, I had community services. So it was very broad. So I would not have been turned around and look that every application. That's why we have line managers there to look at the day-to-day aspects.

The Hon. JAN BURNSWOODS: But how come Mr Weston was bypassed then? If you have line managers to do certain things, how come you ensured that Mr Hunt bypassed Mr Weston?

Mr TURRISI: I didn't ensure that. As I keep saying, I did not give any instruction to bypass Mr Weston.

The Hon. JAN BURNSWOODS: Was that because you were busy on your community services and on your other responsibilities?

Mr TURRISI: Well, because I had other matters I was working on, yes.

The Hon. JAN BURNSWOODS: Thank you.

CHAIR: Okay. Thank you. If there are no further questions—

Ms SYLVIA HALE: Just one.

CHAIR: Sorry, yes. Sylvia has one more.

Ms SYLVIA HALE: The DA allocation meetings, who would attend those meetings?

Mr TURRISI: There was one of the line managers and then senior officers within the department.

Ms SYLVIA HALE: So you would never be actually involved in those meetings?

Mr TURRISI: No.

Ms SYLVIA HALE: Would it be usual for a note to be put on the file "no meeting"?

Mr TURRISI: Um—

Ms SYLVIA HALE: "No DA allocation meeting"?

Mr TURRISI: I can only make a suggestion in this instance, because—

Ms SYLVIA HALE: Yeah.

Mr TURRISI: —of potentially the fact that the application, there was some form of application lodged maybe during the period of that February that someone in the office may be decided there was no need for it to go to an allocation meeting. I don't.

Ms SYLVIA HALE: Yeah.

Mr TURRISI: I'm just putting a suggestion through as to why that may have occurred. But normal process, it would have gone to an allocation meeting, yes.

Ms SYLVIA HALE: Thank you.

CHAIR: Thank you very much. Thanks again, Mr Turrusi, for your time today.

(The witness withdrew.)

CHAIR: If I could just advise the Committee that the AMP witnesses have requested to be heard and then we will do the DFO witness after them. So we will split the hour into two equal parts.

TOM ZARIMIS, National Manager for Property Development at AMP Capital Investors, Sydney, and

JEFFREY GLENN TUCKER, Property Development Manager, Sydney, both sworn and examined:

CHAIR: In what capacity are you appearing before the Committee? That is, are you appearing as an individual or as a representative of your company?

Mr ZARIMIS: As a Representative of AMP Capital Investors on the Cross Roads project.

CHAIR: You conversant with the terms of reference of this inquiry?

Mr ZARIMIS: Yes, I am.

CHAIR: Are you appearing before the Committee in the capacity you have just mentioned?

Mr TUCKER: Yes, I am.

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

Mr TUCKER: Yes, I am.

CHAIR: To both of you, if you should consider at any stage that certain evidence you wish to give or documents you wish to tender may be heard or seen only by the Committee, please indicate that fact and the Committee will consider your request. That we, have either or both of you got a short statement to make to the Committee in the first instance?

Mr ZARIMIS: Yes, I do.

CHAIR: Mr Zarimis, you may proceed.

Mr ZARIMIS: Perhaps it might help the Committee if I explain in simple terms of the structure of AMP Capital Investors property business. AMP Capital Investors is a fund manager representing the interests of a number of different funds comprising unit holders, policyholders and external private clients. AMP Limited does not have any direct holding in property assets. In relation to the Westfield Liverpool shopping centre, the investors of one fund, the AMP Wholesale Shopping Centre Trust, has a 50 per cent holding in the centre. Westfield is the sole manager of the Westfield Liverpool shopping Centre property. The Cross Roads are property is owned 100 per cent by investors of different fund, the Australian Corp Property Portfolio. Would like to take this opportunity to put the current proposed change of use of Cross Roads site into context of the total site. At Cross Roads there is already an established 50,000 square metre bulky goods cluster. Existing tenants include Bunnings, Coles Mega Mart, K Mart Garden Centre, Freedom Furniture and the Good Guys. The proposed rezoning of the site is designed to meet the strong market demand for development of a further 18,000 square metres of bulky goods retailing. It will also facilitate 20,000 square metre outlet centre, which will constitute around 15 per cent of the scheme should the rezoning be approved. This is a small component of the total Cross Roads development.

Ms SYLVIA HALE: Excuse me. Just before you go on. So you have 50,000 already is bulky goods?

Mr ZARIMIS: Yes.

Ms SYLVIA HALE: Then you have a proposed rezoning of 18 that brings up 68,000. Now you are saying—for the outlet centre it is 20,000. Was that part of the 68,000 or was it in addition to it?

Mr ZARIMIS: No, that's in addition.

Ms SYLVIA HALE: Plus. Okay, thank you.

Mr ZARIMIS: And there is still another portion of land of another 12 hectares as well. It's a very large site. As you may be aware, the Australian Corp Property Portfolio lodged its application for rezoning of the Cross Roads site in November 2003. In December of that year Liverpool council decided to link the rezoning application with the rezoning of Orange Grove Road to assist them together. The managers of the portfolio did not have any difficulty with this decision, as research has shown that Orange Grove Road and Cross Roads could coexist. An agreement for lease has been executed with Austech, who operate a number of outlet centres under the direct factory outlet brand for the proposed 20,000 square metre outlet centre at the Cross Roads. As the Committee is aware, of the council meeting on 13 April 2004 the proposed LEP that linked to sites and council's recommendation that the rezoning of Cross Roads and Orange Grove Road proceed together was rejected. Instead, the Cross Roads application was deferred while the rezoning of the Orange Grove Road was advanced. Naturally, we're disappointed that the Cross Roads proposal was deferred for no apparent reason.

I would like to also take this opportunity to correct a possible misunderstanding in relation to a reference in these hearings by the Hon. John Ryan. 110 September he stated, "I have some correspondence, I think, from Gilbert and Tobin who, I think, other lawyers acting for the Cross Roads site." I would like to clarify that Gilbert and Tobin act and acted for Austech at that time. They did not represent AMP Capital Investors at any stage, nor were they the lawyers acting for Cross Roads. Finally, I would like to emphasise that it's always been a few of the Australian Corp Property Portfolio that the proposed development that Orange Grove Road and Cross Roads can coexist in the marketplace. As we have said in documentation prepared in support of our rezoning application, "An outlet centre has been approved and is being constructed on the site at Orange Grove Road. Based on economic analysis prepared by Leyshon Consulting and the anticipated expenditure on outlet-type merchandise, the proposed outlet centre at Cross Roads can coexist with Orange Grove Road." I have a copy of the documentation available, should the Committee require it.

CHAIR: Thank you very much. Are there any questions?

The Hon. JOHN RYAN: Did Mr Tucker wish to make a statement?

Mr TUCKER: No.

The Hon. JOHN RYAN: I suppose what might be helpful is if you could explain what role you two both play so we know who is at all the person to ask what question.

Mr ZARIMIS: Well, I run across the whole of the AMP Capital Investors portfolios from the development perspective, as the National Manager. Jeff Tucker's role is to run the Cross Roads project.

The Hon. JOHN RYAN: Okay. Why would you be concerned about the consideration of the Cross Roads development being deferred by the Liverpool administrator, Gabriel Kibble, on 13 April?

Mr ZARIMIS: We were concerned because the two applications, or the rezoning of the two sites were going through together and the recommendation of the council officers was that both should proceed and one was deferred without any apparent reason, as I've stated in my opening statement.

The Hon. JOHN RYAN: Did you ever lobby against the Orange Grove Road centre being approved at a particular time because it might have, if approved on its own, resulted in making it very difficult for second factory outlet to be approved in the Liverpool area?

Mr ZARIMIS: The Australian Corp Property Portfolio did not object to the Orange Grove Road, and as we've said in our opening statement they were quite comfortable that there was enough market for both of those centres to operate.

The Hon. JOHN RYAN: So who was it that did lobby against the approval at the time? That was the Austexx, was it?

Mr ZARIMIS: No, there was no—no-one. We didn't lobby against Orange Grove Road.

The Hon. JOHN RYAN: There's clearly correspondence but centre to the Minister and the department from Gilbert and Tobin indicating that they would be very disappointed. I don't understand how that is not related to the Cross Roads.

Mr ZARIMIS: Well, Gilbert, as I said in my opening statement, Gilbert and Tobin act for Austexx, they do not act for AMP Capital Investors.

The Hon. JOHN RYAN: So, Austexx be the operators of the direct factory outlet at Homebush?

Mr ZARIMIS: Correct.

The Hon. JOHN RYAN: Did AMP could or is it designates Orion Communications, perspective Minister Beamer or Minister Knowles about your proposals?

Mr ZARIMIS: Not that I am aware of.

The Hon. JOHN RYAN: Did you ever threaten legal action against the Department of Planning, Infrastructure and Natural Resources and the Minister if they approved, or even considered, the section 69 report on the Orange Grove Road—

Mr ZARIMIS: No.

The Hon. JOHN RYAN: Did anyone at AMP ever discuss this issue with people within Westfield?

Mr ZARIMIS: I don't know for a fact, except to say, as I said in my opening statement, there are two different funds: one is the AMP core property portfolio, which looks after Cross Roads; and then there is the AMP Wholesale Shopping Centre Trust, which is a joint venture with Westfield. I assume there could have been discussions between those parties.

The Hon. JOHN RYAN: Is it fair to say that, look, AMP has some interest in the health of the existing Westfield shopping complex at Liverpool, wouldn't it have been in AMP's interest to lobby or at least join with Westfield in lobbying against factory outlets at all?

Mr ZARIMIS: Well, AMP in the AMP shopping centre trust they lobbied, I guess, with Westfield, but the Australian Core Property Portfolio didn't lodge an objection. There are two separate entities: they act independently. They're run by two separate fund managers who all have their own fiduciary duties.

Mr TUCKER: In fact, I think it's fair to say that the economic research prepared by Leyshon and submitted in support of the rezoning of Cross Roads identified a very low impact on Westfield Liverpool and, in fact, the proposal for Cross Roads could coexist with Orange Grove Road.

The Hon. JOHN RYAN: I suppose it's hard for the public and others to understand how it is possible to have a financial interest in Westfield Liverpool and still be promoting the proposal which is designed to compete with it.

Mr ZARIMIS: I think the issue is, to answer your question, people need to understand the structure of the business, and that's why I wanted to sort of do it in fairly simple terms to explain that they are different and that AMP Ltd does not have any direct property holding. We are talking about dealing with superannuation funds, we are talking about unit holders, policyholders and external clients.

The Hon. JOHN RYAN: When were you first aware of the Orange Grove proposal?

Mr TUCKER: I think we became aware of the Orange Grove Road proposal in January 2003.

The Hon. JOHN RYAN: And how did that happen?

Mr TUCKER: I'm not sure. I have a number of consultants and real estate agents working for me. I can't recall who mentioned it to me.

The Hon. JOHN RYAN: So is it likely that real estate agents mentioned it to you because they were aware that people were seeking tenancies or that Orange Grove Road was advertising tenancies?

Mr TUCKER: I am not aware precisely how it came to my knowledge.

The Hon. JOHN RYAN: Was there correspondence between AMP and Westfield that there was going to be a factory outlet centre; it had been approved at Orange Grove?

Mr TUCKER: I haven't seen correspondence to Westfield on the issue.

Mr ZARIMIS: Could I just make it clear that the Cross Roads site and that fund manager is separate and those things that we do are separate from what Westfield do.

The Hon. JOHN RYAN: Did you brief Mr Knowles on the Cross Roads proposal in September 2003?

Mr ZARIMIS: No.

The Hon. JOHN RYAN: Did someone from AMP do that?

Mr TUCKER: In September 2003 we provided a briefing on the project to Emilio Ferrer—I understand that he is on Mr Knowles's staff.

The Hon. JOHN RYAN: Right. And what was the purpose of doing that briefing?

Mr TUCKER: The purpose of the briefing was to explain the Cross Roads proposal. It was a large proposal involving a significant amount of expenditure and the creation of approximately 1,000 jobs. We feel that it is part of the normal process to make the relevant Ministers aware.

Mr ZARIMIS: I think it is also important to remember that outlet centres were extremely topical in terms of where they were happening and so we, having considered that that could be an opportunity, wanted to make sure that we followed the appropriate processes to ensure that we, with our site, were also not topical.

The Hon. JOHN RYAN: Is it fair to say that AMP didn't make representations to anyone during the entire Orange Grove Road consideration?

Mr ZARIMIS: From the Australian Core Property Portfolio, it didn't.

Mr TUCKER: From the perspective of the Cross Roads project, we have consistently represented to the Government, as has been reflected by our economic analysis, that the Orange Grove Road building, which existed at the time our application was submitted, and the proposed outlet centre at Cross Roads could coexist.

The Hon. JOHN RYAN: Are you still pursuing a development of a factory outlet at the Cross Roads?

Mr TUCKER: We have a contractual relationship with Austexx. It's certainly difficult in the current environment to be active on the matter. Certainly we'd like to continue at the appropriate time to put forward the merits of our proposal.

The Hon. JOHN RYAN: It sounds like it's a dead duck, doesn't it, given the criteria that the Government has said need to be met in order to have a factory outlet at all? It's pretty much got to be in a central business district that's been designated in the draft SEPP 66 as one of the major centres, doesn't it?

Mr ZARIMIS: One of the issues, to answer your question, is that an outlet centre requires an area of approximately five hectares or 50,000 square metres. Those size lots don't exist in those areas. Hence, other areas must be considered if this format is to occur. In relation to our proposal, we will put as strong an argument for, and hopefully it's assessed with its merits, and we may or may not get our approval. But it's up to us to put the arguments for.

The Hon. JOHN RYAN: Given the criteria used to not approve an LEP for Orange Grove, which probably has a zoning closer to retail use than some of the industrial land that you are seeking to rezone, it

doesn't appear to be likely that the Government would agree to listen to a proposal for a factory outlet even further away from the central business district, less serviced by public transport than the Orange Grove centre is and even larger than the Orange Grove centre is, does it?

Mr ZARIMIS: Well, the reality is all roads lead to Cross Roads, which is one of the beauties of our site. Really, at the end of the day, the application is something that we have to put up the argument and convince government that it is the correct outcome. After all, it is creating some 1,000 jobs in that area, which is an area that is probably looking for more jobs. These things will all get judged by their merits. We can only put the application forward; the actual assessment will be done by others.

The Hon. JOHN RYAN: But what possible merit could your proposal have that would be more meritorious than Orange Grove? It appears to suffer from more of the problems than Orange Grove's got.

Mr ZARIMIS: We've always said that the two can coexist; we've always maintained that position. I think if you check all the documentation you will find we have at all times said the two can coexist.

The Hon. JOHN RYAN: All right. Has anyone from AMP lobbied the Government rather than just the Australian Core Property Portfolio? There has been no-one from AMP has lobbied the Government at all about Orange Grove.

Mr ZARIMIS: No, because Westfield is the manager of the Westfield Liverpool Shopping Centre Trust—Westfield shopping centre, I'm sorry—and the AMP shopping centre trust is an investor in that particular asset.

The Hon. JOHN RYAN: Are there any distinctive features of factory outlet shopping that you think make them different—worthy of different considerations than retail shopping that takes place in the Liverpool central business district at Macarthur Square and other areas of south-western Sydney?

Mr ZARIMIS: Yes.

The Hon. JOHN RYAN: Would you care to explain those to the Committee?

Mr ZARIMIS: Yes. The difference is a catchment of a shopping centre is around 100,000 to 120,000 people. An outlet centre has a catchment of about 1.2 million. You will find, for example, at Homebush they drag people from as far as Canberra to come to it. The shopping experience is different in the sense that you will go to a shopping centre maybe once or twice a week where you will go to an outlet maybe three or four times a year. It is a different form of retail.

The Hon. JOHN RYAN: I suppose you need to explain a little more as to why I'd go to a shopping complex weekly as opposed to a factory outlet.

Mr ZARIMIS: Because in a shopping complex you will go maybe once or twice a week for grocery shopping. You may go to a Big W or some store like that for fashion or your fashion retail. It is different. Don't forget the outlet centres are people that are selling old, or should I say dated, stock—which is the whole concept behind it. It is a different spend. That's why we can see what the catchment is. Within one catchment of an outlet centre there could be 30 shopping centres within it.

The Hon. JOHN RYAN: Thank you.

CHAIR: Sylvia Hale.

Ms SYLVIA HALE: How important a factor is low rent in these outlet centres?

Mr ZARIMIS: Because the margins are lower. If you're selling new stock the margins are much higher. When you are selling it at a cheaper rate obviously your margins are lower. It's a very different sort of spend.

Ms SYLVIA HALE: One of the arguments being put to the Committee is that the great advantage, the unfair advantage, that these outlet centres enjoy is their low rents because they're operating basically in non-retail areas.

Mr ZARIMIS: It's true: The rents are lower but so are the margins. I think if you work it out on a proportion basis it's probably the same.

Ms SYLVIA HALE: And overheads, apart from that, in terms of store design and—

Mr ZARIMIS: They're very simple. Outlet centres are very simple sorts of structures.

Mr TUCKER: But certainly retailers are seeking to sell current stock at high margins in traditional shopping centres. You go there, you buy the new fashion dress—the current fashion dress—for \$200. You go to an outlet centre and you potentially rummage through a whole bin of \$50 dresses to find the one that you particularly want. It's a very, very different style of shopping.

Mr ZARIMIS: It's not for everybody. Not everyone will go to an outlet centre; it doesn't suit everybody.

Ms SYLVIA HALE: They're not going to succeed in Double Bay, is that what you are saying?

Mr TUCKER: Absolutely not.

Mr ZARIMIS: Absolutely not.

CHAIR: Amanda Fazio.

The Hon. AMANDA FAZIO: I've got a few questions for you, but first of all I just want to clarify something you said earlier. You said you didn't lodge an objection when the Orange Grove development application went in. Does that mean that you actually found the ad on page 31 of the *Liverpool Leader*? Were you actually aware that the DA was advertised?

Mr ZARIMIS: No.

Mr TUCKER: No, I became aware of the Orange Grove Road development centre simply through market contact. As I've said, I can't recall precisely how I became aware of it, but that's how I became aware of it. I didn't see the ad on page 31.

Mr ZARIMIS: The issue is the outlet centres, as I said, are very, very topical; they still are. That's why we're here.

The Hon. AMANDA FAZIO: Can you tell us: When was the development application for the Cross Roads proposal lodged?

Mr TUCKER: We lodged a rezoning application for the Cross Roads proposal on 14 November 2003.

The Hon. AMANDA FAZIO: And when did AMP ask the council to amend the local environment plan?

Mr TUCKER: In response to our rezoning application council resolved to amend the LEP in December 2003, as I recall.

The Hon. AMANDA FAZIO: Were you surprised when Orange Grove was tacked on to your LEP?

Mr TUCKER: We had anticipated that that may be done and we were happy for our proposal to go forward and were satisfied that council would elect in the manner that they chose to take it forward. We were very comfortable we could coexist with Orange Grove Road should both centres be approved.

The Hon. AMANDA FAZIO: So were you even more surprised when the Cross Roads proposal was dropped off the LEP and the Orange Grove proposal stayed on it?

Mr TUCKER: We were disappointed that that had occurred.

The Hon. AMANDA FAZIO: Where you given any reason by council for why that happened?

Mr TUCKER: No, we weren't.

The Hon. AMANDA FAZIO: They didn't consult with you at all about that.

Mr TUCKER: No, they didn't.

The Hon. AMANDA FAZIO: Did you contact the council about that?

Mr TUCKER: We were aware that our tenant through Gilbert and Tobin had written to council on I think 19 April. We spoke to—

The Hon. AMANDA FAZIO: Did you ever get an answer back saying why it had happened?

Mr TUCKER: No. We spoke to council subsequent to council responding to that letter and got no answer as to why.

The Hon. AMANDA FAZIO: So it's still a mystery to you as to why your proposal was dropped off the amendment to the LEP?

Mr TUCKER: Save for testimony to this Committee, mmm.

The Hon. AMANDA FAZIO: And you're still proceeding with the Cross Roads proposal; you've still got the DA in?

Mr TUCKER: Yes.

Mr ZARIMIS: Well, it's a rezoning application. Yes. Well, at the moment it is deferred; there's not much we can really do at this very point in time.

The Hon. AMANDA FAZIO: But you are interested in pursuing it still?

Mr ZARIMIS: Yes, we are.

The Hon. AMANDA FAZIO: That's all for the moment.

Ms SYLVIA HALE: By April the Liverpool council had been dismissed and Ms Kibble had been appointed as the administrator. Did you endeavour to speak to Ms Kibble at all about this, because I believe it was fundamentally on her initiative that the two proposals were split? Did you ever try to speak to her?

Mr TUCKER: No, I did not. I was speaking to the planners, council. I certainly met with planners in council in March. They were suggesting to me that the matter would proceed in accordance with their recommendation, and I saw no need to approach Ms Kibble.

Mr ZARIMIS: It was at the meeting of 13 April that we were made aware, at that council meeting, that they were to be split.

Ms SYLVIA HALE: You went to the council meeting?

Mr ZARIMIS: I went to the council meeting and did a presentation. I explained to them, as you asked me, what outlets were like, sort of thing, and how the Cross Roads would meet it.

Ms SYLVIA HALE: One of the purposes of advertising development applications is obviously to alert people to what is proposed. That can be of very real benefit, particularly when neighbours are concerned about additions or whatever, but in a commercial context, like a major development such as a bulky goods outlet for a major development in the CBD, it would be common for people to have their antennae out everywhere, even at the slightest hint of such a proposal so that you could take that into account. I am asking you how important is the formal advertising procedure for alerting companies such as yours about proposed developments?

Mr ZARIMIS: I think it is very important. It gives the other party the opportunity to respond—either object or support. That is part of our democratic process.

The Hon. AMANDA FAZIO: Can I just ask you something to clarify one of the answers you gave to my questions? When I asked you when was it that AMP asked the council to amend the LEP, you answered 14 November 2003. Was that correct, or do you mean 2002?

Mr TUCKER: Perhaps 2002. No, it is 2003, yes.

(The witnesses withdrew)

IAN PATTESON, Development Consultant, Sydney, sworn and examined:

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

Mr PATTESON: As a representative of Austexx.

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

Mr PATTESON: Broadly.

CHAIR: They should be on the table if you need to refer to them at any time. If you should consider at any stage that certain evidence you may 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 short statement to make?

Mr PATTESON: No.

The Hon. JOHN RYAN: I think we now understand that your company did express some concern about the approval of the amendment to the Liverpool LEP or the potential that the Minister might have approved Orange Grove. Would you care to explain?

Mr PATTESON: We had some concerns due to the deferral of the application and the processing of the Orange Grove Road proposal, given that the advice we had received was that it was our understanding that unless Orange Grove Road was readvertised, the processing of it, to the Minister for issue under section 69, for the application and gazettal to be decided that way, it was not legal. The Act did not allow it. The Act required, given that it was substantially different to that which was proposed to put on public exhibition, it should have been readvertised.

The Hon. JOHN RYAN: What should have been readvertised?

Mr PATTESON: The rezoning application.

The Hon. JOHN RYAN: For Orange Grove?

Mr PATTESON: Correct. The draft LEP or the draft rezoning application, which is the draft LEP, that was before the council and put on public exhibition was for two outlet centres, one at Orange Grove and one at Cross Roads. The council, in the determination of the rezoning application, decided to postpone the Cross Roads application and to proceed with the Orange Grove Road publication. That is different to that which was advertised before the public. The Act requires it to be readvertised.

The Hon. JOHN RYAN: Because it had been separated into one?

Mr PATTESON: Correct. Therefore, it was different. It was our advice that under the Act it should have been readvertised.

The Hon. JOHN RYAN: I imagine that at the back of your mind also would have been the fact that had Orange Grove been approved it would have possibly made an approval for your proposal at the Cross Roads less likely. Would that be fair?

Mr PATTESON: It may have made it more difficult. I do not know about less likely.

The Hon. JOHN RYAN: Why do you think it would have made it more difficult?

Mr PATTESON: Because there would have already been the approval for Orange Grove Road.

The Hon. JOHN RYAN: But we just heard evidence that there was a belief, at least by AMP Capital Investors, that the two could co-exist?

Mr PATTESON: So do we. We would be very happy if it was there. We believe if it was there it would bring more competition into the area, more people into the area. Both would have prospered far better.

The Hon. JOHN RYAN: You would have to say it looks unlikely that the Cross Roads could proceed given the arguments that the Government has placed against Orange Grove?

Mr PATTESON: I do not accept that.

The Hon. JOHN RYAN: How would you distinguish the Cross Roads from Orange Grove given that it is further from Liverpool CBD, is much, much larger, there is less capacity for it to be accessed by public transport than Liverpool, and possibly its being larger would be an even greater drain on the central business district of Liverpool?

Mr PATTESON: You have a whole series of questions there. I will try to remember them. If I do not, please excuse me and just remind me. Firstly, there is the difference between the two proposals. One was to retrospectively rezone a use that had already commenced, which was the Orange Grove Road use. Our application was for the Government to rezone the land to industrial 4 (b) and to place an enabling clause within the Liverpool LEP to allow a specific site to be developed as an outlet centre.

In SEP 66, there is a whole series of requirements that need to be complied with, even though it is only a draft instrument and it has been out for donkeys years. The Government has never enacted it, and it rolls it out when it likes to. In the presentation and the submission to council there is a consideration of all the requirements under draft SEP 66 and we answered all that. Being further from the Liverpool CBD would lessen the impact upon the CBD. The types of tenancies that would be in the outlet centre at Cross Roads would not conflict with any of the tenancies that existed at the time or exist at the moment in the Liverpool CBD.

The Hon. JOHN RYAN: How would that be the case? Surely, the Premier would be saying if Orange Grove was capable of, to use his words, sucking \$18 million out of the central business district of Liverpool, one would imagine that the suction that might come from something twice that size, 12 kilometres away, would be even greater, would it not?

Mr PATTESON: With respect, we decline to comment on the Premier's comments with regard to that. All I know is the information of the economic analysis that we had done, and the impact was such that it was a minor consequence and we showed there would be a recovery beyond what existed, but in a two-year period.

The Hon. JOHN RYAN: I noticed when you were answering the formal questions you gave your office address as 100 William Street East Sydney?

Mr PATTESON: Correct.

The Hon. JOHN RYAN: If I remember correctly, that is Westfield head office?

Mr PATTESON: Yes, correct. It is a funny coincidence.

The Hon. JOHN RYAN: Do you have any business relationship with Westfield?

Mr PATTESON: None whatsoever.

The Hon. JOHN RYAN: So you have not discussed the issue with Westfield directly?

Mr PATTESON: Given that every application Austexx has made with respect to factory outlet centres Westfield takes to court, I would not think I would be discussing anything with Westfield.

The Hon. JOHN RYAN: It must be interesting you sharing the lifts?

Mr PATTESON: I am on level 4. There are two sets of lifts. I am in the low-rise lifts; they are obviously in the high-rise lifts.

The Hon. JOHN RYAN: How has the factory outlet at Homebush been approved given that it does not exist even remotely near what the Government would call a centre? It is not accessible, from memory, by public transport. It does not have much of a public transport access to it. How is that able to be approved, given that—

Mr PATTESON: Can I answer that in a moment and go back to a question I did not answer for you on Orange Grove Road? With respect to public transport at the Cross Roads, there are a series of bus routes that run through or around the Cross Roads site. Conversations have been held with bus operators in that area to bring them to the site and have bus stops within the site which would have serviced them by public transport. With respect to Homebush, Homebush is serviced by public transport. There is a rail station at the Olympic precinct. There is a bus stop directly outside the site. It is approved by council because its planning scheme allowed it to be approved.

The Hon. JOHN RYAN: It would be fair to say that the railway station at the Olympics site would be a fair hike to the direct factory outlets at Homebush?

Mr PATTESON: Correct. As I said, there is also bus stop directly outside.

The Hon. JOHN RYAN: That would be analogous to the situation that would have existed at Orange Grove. Orange Grove was linked by bus to Liverpool.

Mr PATTESON: I do not know. I have no idea. I would be surprised if it did not, given the importance of Orange Grove Road in the road hierarchy.

The Hon. JOHN RYAN: There are in the order of three or four factory outlets around Sydney and I think seven or eight of them around New South Wales. Do you think the State Government has a consistent approach to the approval of factory outlets in New South Wales?

Mr PATTESON: No.

The Hon. JOHN RYAN: Would you like to elaborate?

Mr PATTESON: No.

The Hon. JOHN RYAN: Would it be fair to say, do you think there are factory outlets that have been able to be approved outside of centres in New South Wales?

Mr PATTESON: Yes.

The Hon. JOHN RYAN: Would you outline where you think they are?

Mr PATTESON: Birkenhead Point, Mount Druitt, Maroubra to some degree.

The Hon. JOHN RYAN: Am I correct, the original plan for the Olympics site included some reference to factory outlet, did it not?

Mr PATTESON: I am unaware.

The Hon. JOHN RYAN: What is the history of the factory outlet at Homebush? How did it come to be established?

Mr PATTESON: Austexx, which is a Melbourne-based, privately owned company, decided it would undertake developments of outlet centres in Australia. It saw it as a niche that was not being correctly developed and a business opportunity existed. It developed its first centre in Melbourne. We were looking around Sydney for potential locations, because it is fairly difficult to locate a large business site such as that. We came across the Homebush site and negotiated acquisition with the owner.

The Hon. JOHN RYAN: I put it to you that draft SEPP 66, if consistently and correctly implemented by the Government, would virtually make it impossible to establish a factory outlet anywhere in New South Wales.

Mr PATTESON: That is not correct.

The Hon. JOHN RYAN: Why?

Mr PATTESON: There is a saving clause—I think it might be referred to as clause 9. I would suggest you read that before you ask the question.

The Hon. JOHN RYAN: Sorry sir, I do not need you to be aggressive.

Mr PATTESON: I cannot remember the exact wording.

The Hon. JOHN RYAN: Even in rough terms it would be helpful.

Mr PATTESON: Basically, it says that it should be within a centre. But if you look at a whole lot of other criteria and you can satisfy the other criteria—outlet centres or anything other—

The Hon. JOHN RYAN: This is the net benefit test.

Mr PATTESON: Yes.

The Hon. JOHN RYAN: However, the net community benefit appears to have been applied in the case of Orange Grove to mean that there has to be a clear net community benefit.

Mr PATTESON: Yes.

The Hon. JOHN RYAN: In order to obtain a clear net community benefit you have to have close links to public transport and you have to demonstrate that there is no net harm to existing private infrastructure.

Mr PATTESON: Yes.

The Hon. JOHN RYAN: That would be a very hard test to pass if it were meant, as has been put to us by the director-general of DIPNR—that virtually any leakage at all from a centre to a factory outlet demonstrates that there is not a net community benefit.

Mr PATTESON: I obviously cannot comment on her opinion. However, it is our opinion that there is an opportunity within draft SEPP 66 to allow facilities such as ours to be developed outside centres.

The Hon. JOHN RYAN: If it was made—

Mr PATTESON: This Committee needs to remember that it was brought up in evidence before that Westfield seemed to go on ad nauseum about level playing fields and outlet centres being developed on industrial land. There is only one shopping centre—and I am talking about major regional shopping centres—that has been developed on land that was correctly zoned for its purpose prior to its construction, and that was at Penrith. Every Westfield shopping centre that has been developed has been on land that has been purchased and rezoned.

The Hon. JOHN RYAN: So, without some flexibility—

Mr PATTESON: Level playing fields are a load of crap.

The Hon. JOHN RYAN: I appreciate that. Without some flexibility in the zoning you would say that it would be very difficult to establish a factory outlet. Is that fair to say?

Mr PATTESON: Yes.

The Hon. JOHN RYAN: Do you take the view that, as it is currently being interpreted, SEPP 66 is almost a restrictive trade practice limiting the expansion of factory outlets in comparison to a shopping option in an existing shopping outlet?

Mr PATTESON: It is not necessarily my view, but one could construe SEPP 66 to be in favour of certain retailers to the disadvantage of others.

The Hon. JOHN RYAN: It clearly does seem to favour them, with the exception that the land that they purchase zoned retail is considerably more expensive.

Mr PATTESON: As I have said, the vast majority are on land that was not zoned correctly. They have enhanced the value of the land through acquisitions.

The Hon. JOHN RYAN: Therefore, it would be fair to say that the argument being levelled against Mr Gazal about receiving a windfall gain have in fact been experienced by existing retailers.

Mr PATTESON: Ten times over.

The Hon. JOHN RYAN: What do you think the Government should be doing about factory outlets? Should we have another look at draft SEPP 66 and make some specific inclusion in it that would allow factory outlets to be established on a regional basis throughout the metropolitan area and New South Wales?

Mr PATTESON: I do, and we put that idea to the Government a number of years ago.

The Hon. JOHN RYAN: Does that view exist in some documented form?

Mr PATTESON: I think it did.

The Hon. JOHN RYAN: I suggest it might be helpful for you to provide that document.

Mr PATTESON: I do not think I can find it now. It would have been a letter written to someone within DIPNR with respect to a site that we may have been pursuing at the time saying that the Government should look at this matter. I did not pursue it because it did not seem to be of great interest to anyone.

The Hon. JOHN RYAN: The Government produced a consultation paper referring to emerging retail formats. Did Austexx make some submissions to that?

Mr PATTESON: I was invited to attend that but I was unable.

The Hon. JOHN RYAN: So there is no formal submission that you can give to the Committee that might put the point of view about—

Mr PATTESON: No.

The Hon. JOHN RYAN: —the importance of emerging retail outlets.

Mr PATTESON: No.

The Hon. JOHN RYAN: Did Austexx employ Orion Communications to lobby on their behalf?

Mr PATTESON: AMP employed Orion Communications.

The Hon. JOHN RYAN: So you did not.

Mr PATTESON: No.

The Hon. JOHN RYAN: Did Austexx employ Gilbert and Tobin and did they threaten DIPNR and the Minister with legal action if they even considered the section 69 report into Orange Grove?

Mr PATTESON: I am unable to answer that on the basis that that was handled out of Melbourne and I do not know the context of the letters. I am aware that the letters exist, but I do not have copies of them.

Ms SYLVIA HALE: We were given evidence earlier that an outlet centre requires a minimum of five hectares. Do you agree with that?

Mr PATTESON: In a perfect world, yes. An outlet centre must be of a critical mass. That is one of the things I have also tried to talk to the Government about. A number of outlet centres that have been developed to date, while they might operate, will not operate successfully because they are too small. They need to be of a critical mass to get the right type of tenant and the right number of tenants to be able to attract the public to trade correctly. You need a building of about 20,000 square metres, which can have about 16,000 square metres of net level tenancy. You also need a minimum of a 1,000 cars, which requires 25,000 square metres of car park. If you have building of 20,000 metres and 25,000 square metres of car park, you can see where 50,000 square metres is required.

The Hon. JOHN RYAN: Is that a greater level of car park than a retail outlet like Westfield has?

Mr PATTESON: Yes, and I can explain that too if you wish.

The Hon. JOHN RYAN: But it is a larger area of car park?

Mr PATTESON: I can explain why.

Ms SYLVIA HALE: Please do.

Mr PATTESON: There are obviously different levels of shopping centres. A district shopping centre, which is normally a supermarket or discount department store, will have visitations between two or three times a week and length of stay will be between 20 minutes and 25 minutes. A regional shopping centre, such as the Westfield and Lend Lease type of situation, which have a couple of 100,000 square metres of space, have visitations about once a fortnight and length of stay is about 45 minutes. Outlet centres, if they are developed the way we believe they should be, will have visitations two, three or four times year, with a minimum length of stay of two hours. If you are going to have people staying for about two hours, you obviously need a larger number of parking spaces because you are not turning over your parking numbers. If you did a study on the Westfield centres, you would probably see that they are not all that much different on a site ratio from what we provide.

Ms SYLVIA HALE: You said that SEPP 66 was in draft form, that it had been around for many years and that the Government regularly failed to act on it. Presumably the instances you gave were Birkenhead, Mount Druitt and Maroubra. Is that correct?

Mr PATTESON: No, I did not mean to tie them in.

Ms SYLVIA HALE: Can you provide some examples of where the Government has failed to act?

Mr PATTESON: I meant that SEPP 66 in a draft form has been around for 10 years, or perhaps more. It has never been formalised; it is still a draft. It makes you wonder about the relevance of the document if the Government does not believe after about 10 years that it should be formally gazetted or brought into law. That is the context in which I meant to put it. If I dragged the others in, I did not mean to and I apologise.

Ms SYLVIA HALE: I assume from what you are saying that leaving it in draft format is convenient and that over that 10 years there could have been material changes in the circumstances that should feed into the making of such a policy.

Mr PATTESON: Yes. It changes have been touted and it has been changed on occasion. There have been a number of reviews, but it is still sitting in a similar format.

Ms SYLVIA HALE: Is it true that the Homebush centre is under legal challenge?

Mr PATTESON: With respect to what?

Ms SYLVIA HALE: Whether it has been given a valid consent to operate.

Mr PATTESON: No, it has a valid consent. If you are talking about the court action that Westfield has taken against Austexx and DFO at Homebush, you will find that Westfield has acknowledged that the consent is valid.

Ms SYLVIA HALE: What is the nature of the challenge?

Mr PATTESON: They are challenging a number of the tenants with respect to whether they are, in their mind, trading as an outlet centre or as a retail shop.

Ms SYLVIA HALE: So it is the tenants rather than the—

Mr PATTESON: Correct; they have challenged four tenants.

Ms SYLVIA HALE: Do you see any great distinction between bulky goods and the activities that can be carried out under that definition and what can be carried out under a retail outlet definition? Do you see any qualitative difference between the two?

Mr PATTESON: What do you mean by retail outlet? Are you talking about an outlet centre?

Ms SYLVIA HALE: Yes.

Mr PATTESON: They are two entirely different beasts; they are very different forms of retailing.

Ms SYLVIA HALE: So you think they attract very different people. I ask because we have been given the examples of Harvey Norman, which sells CDs, and Captain Snooze, which sells manchester. Do you think that variety of merchandise is sufficiently different from the retail outlet type of merchandise?

Mr PATTESON: There will always be cross-pollination between those two types of retailing. There is also cross-pollination between that and traditional retailing. The main reason that outlet centre retailing is required is that there is a vast number of retailers—wholesalers or manufacturers in Australia and importers—who run outlets that do not sell all their stock. They have to dispose of that product either by scrapping it or selling it through an outlet centre. Traditionally that has been in places like Redfern, Surry Hills and other places in other capitals cities in Australia. Given the preponderance of shopping centres, it is not possible to dispose of that stock through a couple of little shops. Also, there is a number of people in our community who, for whatever reason, either cannot afford to or prefer not to shop at major shopping centres and who are happy to shop at outlet centres because they can get a cheaper product at the same quality that they get from a shopping centre. It may be last year's stock, but it is still a good quality product. That is why the catchment for an outlet centre is far larger than for a regional shopping centre.

Ms SYLVIA HALE: You see them as providing a service for less affluent members of the community?

Mr PATTESON: For the less affluent and also the affluent who do not want to spend money on clothing.

The Hon. JOHN RYAN: I use them. Did your company approach the Gazal family or Gazcorp to put a factory outlet on their site before approaching AMP?

Mr PATTESON: Yes.

The Hon. JOHN RYAN: Did you do that any number of times?

Mr PATTESON: I was probably talking with Nabil for upwards of six to nine months.

The Hon. JOHN RYAN: So the proposal he had was not much different from what you had in mind.

Mr PATTESON: The proposal he has constructed at Orange Grove Road is a direct copy of Homebush. So the answer to your question is no.

The Hon. JOHN RYAN: Can a factory outlet not operate in space that might be available in Liverpool? For example, Westfield is expanding; is it not possible for a factory outlet to purchase space within that expansion?

Mr PATTESON: No, you cannot afford the rents that Westfield charge.

The Hon. JOHN RYAN: So it is important to have cheaper rents?

Mr PATTESON: That is the whole basis of it. To sell a cheaper product you have to have a cheaper base. Your rents need to be cheaper, so the land you acquire needs to be cheaper and the development costs need to be cheaper. The building is not of the same quality.

The Hon. JOHN RYAN: I am losing some of the technology. Is it not true also that factory outlets tend to use the space less densely than retail shops? A retail shop selling the latest fashion is likely to need less shopping space because there is not as much product on display, whereas factory outlets seem to like lots of space so that people can crawl around the product and spread it out on the floor?

The Hon. AMANDA FAZIO: Is that what you do?

Mr PATTESON: That is true.

The Hon. JOHN RYAN: People do that.

Mr PATTESON: At Homebush and wherever else we may build one, a large majority of the tenants are also within regional shopping centres. Their shops in those instances are probably around 100 to 120 square metres. In an outlet centre it may be 150 to 200, or 500 square metres.

The Hon. JOHN RYAN: So the factory outlet is a little larger?

Mr PATTESON: The factory outlets are normally a little larger, yes.

The Hon. JOHN RYAN: Would that mean that the average rent for a shop operating a factory outlet would not be much different, given that they have to rent more space?

Mr PATTESON: Oh no, a lot less.

The Hon. JOHN RYAN: It is a lot less?

Mr PATTESON: Oh yes.

The Hon. JOHN RYAN: Could you give the Committee some idea of the difference in rental between the two options.

Mr PATTESON: I am led to believe—and I will put it in that terminology because I cannot prove it otherwise—that rents in a regional shopping centre will be between \$900 and \$1,200 dollars a square metre, maybe \$1,350 a square metre. If you are small you can get down to \$1,500 a square metre if you have got, say, a 50 square metre one. At an outlet centre it would be \$200 to \$500.

The Hon. JOHN RYAN: So it is considerably cheaper?

Mr PATTESON: It is a lot less.

The Hon. AMANDA FAZIO: Mr Patteson, in the outlet centres that you are involved with such as Homebush do the people have to get a development approval for each shop within the centre or does the one DA for the whole centre cover all your operations?

Mr PATTESON: When we applied for the development application initially we put each individual shop use on the application So we got it all in one. But if we had not we would have had to apply for each individual one.

The Hon. AMANDA FAZIO: So, for example—

Mr PATTESON: So, in answer to your question the answer is yes, but we do it concurrently.

The Hon. AMANDA FAZIO: So you said, like, you are going to have a Sandler outlet shop and a Charlie Brown outlet shop in there. So you knew who your tenants were?

Mr PATTESON: We were not that specific.

The Hon. AMANDA FAZIO: Shoes?

Mr PATTESON: We would say that we would have women's fashion, women's shoes, men's shoes, children's wear, sportswear, et cetera.

The Hon. AMANDA FAZIO: At Homebush did you allow any of the tenants to move in before they had signed a lease and the lease was registered?

Mr PATTESON: I cannot answer that because I am not sure and I would rather not suppose. Knowing my principals, I would be amazed if we did.

The Hon. AMANDA FAZIO: Okay, thank you.

Mr PATTESON: At least we would not have allowed them in to start working without a deed to lease signed. In these situations you have a deed to lease and a lease attached to it. So the lease itself probably was not signed when they moved in but they would have had a signed deed, as I say, with the lease attached, which legally binds them.

The Hon. AMANDA FAZIO: Okay.

Mr PATTESON: And binds us.

The Hon. AMANDA FAZIO: Okay.

Mr PATTESON: Does that answer you?

The Hon. AMANDA FAZIO: Yes.

The Hon. JOHN RYAN: Did Austexx ever employed a person called Gerard Turrisi?

Mr PATTESON: With respect to Crossroads?

The Hon. JOHN RYAN: Yes.

Mr PATTESON: No.

The Hon. JOHN RYAN: Not at all?

Mr PATTESON: No.

The Hon. JAN BURNSWOODS: Did you employ him with respect to any other centre?

Mr PATTESON: I think I spoke to Gerard about an entirely different development elsewhere just after he had left council. I cannot think of it. But it did not proceed. It did not proceed and I cannot recall what it was.

The Hon. JOHN RYAN: If he was employed at the Crossroads he would have had to be employed by AMP?

Mr PATTESON: Yes.

The Hon. JAN BURNSWOODS: So you are saying that you did not actually employ him; you spoke to him about something?

Mr PATTESON: Yes.

The Hon. JAN BURNSWOODS: But no money was exchanged?

Mr PATTESON: I do not believe so.

The Hon. JOHN RYAN: Not that there is anything wrong with that. He is entitled to get work.

(The witness withdrew)

(Short adjournment)

SARAH LOUISE SCOTT TAYLOR, Chief of Staff, Minister for Infrastructure and Planning, and Minister for Natural Resources, Sydney, affirmed and examined:

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

Ms TAYLOR: Yes.

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

Ms TAYLOR: I do.

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

Ms TAYLOR: Madam Chair, I appear here today following a request from the Committee and I am happy to assist with information relevant to the inquiry's terms of reference. I moved to Sydney to take on the role of chief of staff to Minister Craig Knowles on 21 April this year. In the week prior to my official start date I also spent a number of days in the Minister's office preparing for a major announcement on the metropolitan strategy, which the Minister and the Premier made on 22 April. Before commencing in this role, from late 2002 to April 2004 I had an extended break from paid employment and I spent time living overseas and in rural New South Wales.

Prior to this I ran my own business working as a media and communication consultant. I commenced work as a consultant in February 2000. Between April 1998 and January 2000 I was employed by Westfield. My position was the national communication manager in the head office marketing division. Prior to my time at Westfield I held various positions in Federal, State and local government, including working for the former Prime Minister, Paul Keating, from March 1993 to March 1996. Since leaving Westfield in early 2000 I had not met with or had any discussions with Mark Ryan until 22 July this year—over four years later—nor have I met with or been contacted by any other Westfield representative in relation to Orange Grove or any other planning or development matters.

On 22 July I had a telephone conversation with Mark Ryan from Westfield, which lasted approximately 20 or 30 seconds. This was in relation to a media release issued by Westfield on the Orange Grove matter, which had mentioned my Minister, Craig Knowles. More recently I phoned Westfield to ask for a copy of the diagram Mr Ryan presented to this inquiry and to check on the dates of my employment at Westfield. On neither occasion did I speak to Mr Ryan.

I first became aware of the Orange Grove issue on 21 April this year when the matter was raised with me by the then deputy chief of staff, Emilio Ferrer, after he had attended a meeting in Minister Beamer's office. The nature of what Mr Ferrer told me about the meeting is as follows: that there was a shopping centre in Liverpool, which had been opened by Minister Knowles; the approval for the shopping centre had subsequently been declared invalid by the Land and Environment Court; there was a request to rezone the site and concerns had been raised by Westfield regarding certain lobbying in relation to the rezoning.

Mr Ferrer made the point that it was not a matter for our office to be involved in, given that LEP amendments were dealt with by the Assistant Minister and we agreed that, given his role in opening the centre, it was even more important that Minister Knowles should have no role in the matter. Mr Ferrer said he would mention the meeting to the Minister and we left it at that. A day or so following my discussion with Mr Ferrer, I had a brief conversation with the Minister regarding the matter. My recollection of the conversation is that we confirmed that Mr Ferrer had spoken to him about the meeting in Minister Beamer's office. He confirmed that he had opened the centre in late 2003 and we agreed that it was neither appropriate nor necessary for our office to be involved in the matter, given LEPs were a matter for the Assistant Minister and given his role in opening the centre.

The next time I recall the matter being raised was at a meeting between Ministers Knowles and Beamer, which also included me and Minister Beamer's chief of staff, Michael Meagher—a regular catch-up meeting where we discussed various portfolios. The issue of Orange Grove was mentioned by Michael Meagher and I

recall intervening to suggest that it was something that should not be discussed with my Minister. There was no disagreement and the matter was not discussed. We moved on to other matters.

The Hon. JOHN RYAN: Do you have a date for that meeting?

Ms TAYLOR: No, I do not recall the date of that. During the week of 14 to 18 June I was on leave from work attending to personal matters. On the afternoon of 22 June there was a regular departmental briefing with the director-general at our office in Parliament House. I recall the issue of Orange Grove being raised by the director-general in order to alert the Minister to the fact that the Orange Grove file had been subpoenaed. The director-general said she would be raising this matter with Minister Beamer. I do not recall the exact words but the Minister agreed with that course of action, as it was a matter for Minister Beamer and one he did not wish to be involved with.

Later that week I recall overhearing a phone conversation between Minister Knowles and his father in the office at Parliament House. A check of the calendar confirms this was 24 June, as it was the same day that the report was released from the upper House inquiry into issues at Camden and Campbelltown hospitals. I do not recall the exact words but it was clear that the Minister was telling his father to tell someone else that he would not meet with him. After he finished the call he told me that the person seeking a meeting was Frank Mosca. The following week the Minister also advised me of the attempts made by Mr Mosca, on behalf of Mr Gazal, to meet with him at his home on 24, 25 and 26 June. The details of these attempts are outlined in the Minister's media statement of 13 August. As stated by the Minister in the 13 August media statement, these details have also been provided to the ICAC.

I have never met or spoken to Mr Mosca or Mr Gazal or Mr Bargshoon and in the time that I have worked for Minister Knowles none of them has attempted, as far as I know, to make an appointment to see the Minister at his office or during office hours. Some time following 22 June I was advised by Virginia Knox, the chief of staff to the Minister for Local Government, that the acting administrator of Liverpool council, Mr Gary Payne, had raised with her the fact that he had been sent some DIPNR file papers. The matter had been raised as a courtesy to let me know that departmental papers had been circulated. When Ms Knox showed me the papers I presumed they were from the Orange Grove file that had been subpoenaed. I advised her that it was not a matter that our office was dealing with but that I would bring the matter to the attention of the director-general. I recall mentioning this to the Minister in passing and also to the director-general. Neither of them was surprised, given that we were aware that the file had been subpoenaed.

On 8 July the Orange Grove matter again came to my attention when I learned that Minister Beamer had rejected the request from Liverpool council to amend the LEP. I then advised Minister Knowles of Minister Beamer's decision. The following week, around 12 July, Orange Grove became a significant issue in the media. At that time my Minister was on holidays interstate. Because of media interest and speculation about Minister Knowles' role in opening the centre, I then became closely involved in the issue. Having no prior involvement in the matter, I spent a significant amount of time obtaining information in order to inform myself about Orange Grove and prepare briefing material for the Minister on his return.

From that time I have conferred with a number of people, including staff in Minister Knowles' ministerial and electorate offices, Minister Beamer's office, the Premier's Office and the DIPNR director-general's office in the process of gathering information about the chronology of events leading up to the LEP decision, the background to the Orange Grove DA approval by Liverpool council, the court decisions overturning the DA approval, Minister Knowles' involvement with the opening of Orange Grove and Minister Knowles' meeting with Westfield.

Our office was also required to respond to media inquiries regarding the Minister's role in opening the centre. Since that time, the Minister has made a number of statements to the media and to the Parliament regarding the Orange Grove issue. These statements are all on the public record, and I would like to table copies for the benefit of members of this Committee.

CHAIR: Thank you, Ms Taylor. You are tabling those?

Ms TAYLOR: Yes, they are all here.

Documents tabled.

Ms TAYLOR: On the subject of legal advice, I would like to make the following points. Prior to his appearance at this inquiry, the Minister's former deputy chief of staff, Mr Emilio Ferrer, phoned me to ask me if he was entitled to legal assistance. I told Mr Ferrer that he would be entitled to assistance in line with the guidelines set down by the Office of Legal Representation within the Attorney General's Department. I also told Mr Ferrer that Mr John McCarthy was acting for other Government staff on the Orange Grove matter but that, ultimately, the choice of a legal representative was a matter for him to decide. I have also sought my own legal advice from Mr McCarthy in relation to my appearance here today.

Prior to my appearance I sought the assistance of members of Minister Knowles's staff in order to verify certain dates and collate documents for tabling, and I have read media reports and transcripts of the Committee's hearings. I would like to conclude by saying that I am happy to respond to questions which relate to the Committee's terms of reference for this inquiry about which I have personal knowledge.

The Hon. JOHN RYAN: Firstly, Ms Taylor, thank you from making yourself available to the Committee. I appreciate the detail to which you have gone in outlining your knowledge of this matter. I am not sure that you dealt with this, so I think I need to ask you: do you know Mark Ryan?

Ms TAYLOR: I do know Mark Ryan.

The Hon. JOHN RYAN: When was the last time you spoke to him?

Ms TAYLOR: I have already told you that in my statement.

The Hon. JOHN RYAN: Have you had any dealings with anyone from Westfield since you started working for Mr Knowles?

Ms TAYLOR: I have already answered that in my statement.

The Hon. JOHN RYAN: Could you refresh my memory?

Ms TAYLOR: It is in my statement. I have already mentioned it.

Ms SYLVIA HALE: Could you direct us to the part?

Ms TAYLOR: I will read it for you. On 22 July, I had a telephone conversation with Mark Ryan from Westfield—

The Hon. JOHN RYAN: Right, now—

Ms TAYLOR:—which lasted approximately—if I can just finish—20 or 30 seconds. This was in relation to a media release issued by Westfield on the Orange Grove matter which had mentioned to my Minister, Craig Knowles. More recently—I do not remember the date—I phoned Westfield to ask for a copy of the diagram Mr Ryan presented to this inquiry because it had mentioned my Minister, and to check on the dates of my employment at Westfield. On neither occasion did I speak to Mr Ryan.

The Hon. JOHN RYAN: So you have not attended any briefings in which Mr Knowles has needed to be briefed by Westfield?

Ms TAYLOR: No.

The Hon. JOHN RYAN: Did Mr Ferrer tell you anything further? You did actually outline some of the issues that Mr Ferrer mentioned to you about the meeting with Mr Wedderburn. Do you recall Mr Ferrer describing some of the disparaging things that Mr Wedderburn apparently said about Westfield? Do you recall Mr Ferrer referring to any of those?

Ms TAYLOR: No. My recollection of what Mr Ferrer told me is what I have read to you in my statement. I would remind you of the fact that it was also probably—well, it was my first official day on the job,

and I had probably been in the office, in and out, for a few days before then. I had a lot of things to preoccupy my mind at that time, and I did not pay close attention to this matter.

The Hon. JOHN RYAN: Have you had any further discussions with Mr Wedderburn about Orange Grove or the Premier's office?

Ms TAYLOR: Following—I have had a number of discussions with Mr Wedderburn following 12 July when this became a very significant media issue, and I consulted him and a number of other people about the media management relating to this.

The Hon. JOHN RYAN: Just a minute. I am just going through some of the material I have to ask you about, some of which you have already answered. Are you aware of anything about Mr Knowles's relationship with Mr Mosca in terms of them being personal friends? Has Mr Knowles explained that to you at all?

Ms TAYLOR: The only information I am aware of about Mr Knowles's relationship with Mr Mosca is that which he has already placed on the public record, and I have tabled copies of that for the Committee's benefit.

The Hon. JOHN RYAN: Without wanting to be difficult about that, though, it does not include the fact that Mr Knowles is a personal friend of Mr Mosca. Is that not so?

Ms TAYLOR: I am not aware that he is a personal friend of Mr Knowles's. You would have to check the statement Mr Knowles has made in relation to that matter.

The Hon. JOHN RYAN: Mr Knowles has not made any attempt or has not mentioned to you his prior knowledge of Mr Mosca being, for example, a member of a branch of the Labor Party?

Ms TAYLOR: If I am aware of that, I would have read it in the newspaper.

The Hon. JOHN RYAN: Mr Knowles has not mentioned that to you?

Ms TAYLOR: I do not recall ever discussing with Mr Knowles his personal relationship with Mr Mosca, but Mr Knowles has made, I think, a number of statements about his relationship with Mr Mosca, both in the Parliament and in the media.

The Hon. JOHN RYAN: Did Mr Knowles complain to you about Mr Mosca's attempt to meet him? Did he say anything disparaging about those meetings?

Ms TAYLOR: Mr Knowles issued a very detailed media statement about Mr Mosca's attempts to meet with him, and I would refer you to that statement. I think that best explains.

The Hon. JOHN RYAN: But I am also interested in how he explained it to you. Did Mr Knowles seem annoyed that Mr Mosca had attempted to contact him in the way in which he has outlined?

Ms TAYLOR: You are asking me to speculate about the Minister's feelings on something, and I—

The Hon. JOHN RYAN: Sometimes people to express them, so I think it is fair to ask you.

Ms TAYLOR: Well, I am sorry. I do not see that it is reasonable to speculate about someone else's feelings on a matter.

The Hon. JOHN RYAN: With great respect, Ms Taylor, I am not asking you to speculate. I am just asking you: did Mr Knowles express a view? He may well not have, but I am just asking you did he.

Ms TAYLOR: I do not recall him expressing a view.

The Hon. JOHN RYAN: He did not seem to be—he did not express any sort of anger or annoyance?

The Hon. AMANDA FAZIO: Point of order: Ms Taylor has already answered this question: there is a limit to the number of times. I know that Mr Ryan likes asking repetitious questions, but there is a limit to the number of times that questions should be asked of witnesses. I ask you to ask Mr Ryan to ask a fresh question.

The Hon. JOHN RYAN: I do not think there is a limit, and I do not think there is a point of order.

CHAIR: No. There is no point of order.

The Hon. JOHN RYAN: It is a key question. I asked about annoyance. Now I am asking about anger. They are different. It has been generally reported in the media, or at least it has been suggested at this Committee, that the visits to his home were frightening to his parents and were out of character to what Mr Knowles would normally have expected of a decent relationship with Mr Mosca. It is not unreasonable to ask you, at that time he was raising them with you, as to whether at that time he expressed that frustration at the time?

Ms TAYLOR: I do not recall the exact words that Mr Knowles used. I know that he considered it to be very inappropriate though.

The Hon. JOHN RYAN: Okay. That is fair enough. Had he expressed that? Did he say it was inappropriate, or did he—

Ms TAYLOR: I just said to you that I do not recall the exact words he used, and I do not intend to reconstruct or speculate. If I can assist the inquiry, the Minister made a very detailed statement about this to the media, and you could probably read that.

The Hon. JOHN RYAN: Nevertheless, it is fair to ask you about your experience because the Minister's statements in the media, with great respect, are his statements, not yours.

Ms TAYLOR: But you are asking me to speculate about the Minister's feelings—

The Hon. JOHN RYAN: No, I am asking you—

Ms TAYLOR:—and I do not think that is appropriate.

The Hon. JOHN RYAN: No, I am asking you to tell us what you know of them, that is all. If you do not know about them, it is fair not to, but given that the incident has been the subject of some comment at this Committee, I think it is fair to find out whether your experience was consistent with what has been suggested to this Committee. That is all. I do not mean anything inappropriate at all. When you learned, how did you come to learn that Ms Beamer had rejected the LEP?

Ms TAYLOR: To be honest, I do not remember who it was that told me. It was probably someone from her office, I would imagine.

The Hon. JOHN RYAN: Were you told verbally by telephone, or did you receive a written brief?

Ms TAYLOR: I do not remember. Actually, it must have been verbal because I do not have anything—I do not have a written brief about it. If I had received something in writing, I would still have a copy of it.

The Hon. JOHN RYAN: Did you advise Mr Knowles?

Ms TAYLOR: I did.

The Hon. JOHN RYAN: Would it be fair to say that Orange Grove was going to involve some level of media management by the time it was going to be announced to the public? It did involve a facility which was trading. While there has been debate about how many people would have lost their jobs, I think it is fair to say that there were going to be hundreds of people involved, as opposed to a few. That would obviously require some level of briefing to not only the Minister but to make sure that everyone understood what was going to happen and what the Government's line was going to be. What efforts were made, and when did it occur, to start

circulating within the Government a briefing to update everybody as to what was going to happen, given that obviously a level of media management would be required?

Ms TAYLOR: I do not recall ever receiving a briefing from anybody in relation to media management on this issue.

The Hon. JOHN RYAN: You were simply told what was going to happen; you were in it; it was not going to be happy—

Ms TAYLOR: It was a matter for Minister Beamer's office. That was the other thing. I was concerned about the aspects of it that involved my Minister, but in terms of the actual announcement, that was a matter for Minister Beamer's office.

The Hon. JOHN RYAN: When you were collecting information about Mr Knowles's involvement with this project, which included the fact that he had opened it, did you become aware—I will just wait until the musical accompaniment finishes.

The Hon. AMANDA FAZIO: Why do we not just ask them to leave?

The Hon. JOHN RYAN: Did you become aware as to whether Mr Knowles received a departmental briefing prior to going to the Orange Grove site to open it, as is often the case when Ministers go? There is usually a briefing. Did he receive one when he went there in November?

Ms TAYLOR: I have not seen any departmental briefing, no.

The Hon. JOHN RYAN: When you said that your office—why was it your office that was gathering background information to this matter, given that it was a decision made by Ms Beamer?

Ms TAYLOR: Because we were receiving a large number of media inquiries in relation to my Minister's involvement—in particular in relation to the fact that he had opened the centre, so I made it my business to inform myself about the facts surrounding the matter.

The Hon. JOHN RYAN: And where would you go to get your advice—from Ms Beamer's office, I guess?

Ms TAYLOR: I went to a number of sources. I would have spoken to Minister Beamer's office. I would have spoken to the director-general's office. In fact I think I mentioned all of that in my statement.

The Hon. JOHN RYAN: Did they give you briefing notes, or did you just collect it verbally?

Ms TAYLOR: I asked them for some things in writing and others verbally.

The Hon. JOHN RYAN: I think it would be fair to say that when Minister Beamer was interviewed in the media on a couple of occasions, she said that she made this decision entirely on her own, without consulting any other Minister. People said to her that that sounds incredible, given the size of the decision—knowing that it involved a significant number of working people. It seems unbelievable that a Minister would manage that entirely on her own without, I must say, at least informing the Premier and other Ministers, "Are you aware of how big this decision is going to be? There is obviously going to be a fair level of controversy. How why we going to manage this?" I must say, of all of the issues about this, that sounds to me to be the most incredible part of it—that the Minister would, one imagines, make a very big call on the whole of the Government without consulting any of her colleagues. Are you able to say that at no time did Ms Beamer ever consult or try to inform Mr Knowles that she was dealing with something that was going to involve significant controversy for the Government, and seek his advice?

Ms TAYLOR: I have already mentioned in my statement the one time that Minister Beamer or that the matter was about to be raised in the presence of Minister Knowles and Minister Beamer. I intervened to ensure that the matter was not discussed. I disagree with you: I think it is entirely appropriate that Minister Beamer would make this decision unassisted. She is a Minister. That is her job.

The Hon. JOHN RYAN: I accept that she might make it unassisted, but it is going to involve the Government's position ultimately. It seems incredible to me that, given the size and dimension of it as political management, that there was not some attempt to make it a corporate decision between the whole Government rather than just her.

Ms TAYLOR: That may be your opinion.

The Hon. JOHN RYAN: When you were telling us about Gary Payne was he, at the time, the administrator of Liverpool council, or why had he come to review documents?

Ms TAYLOR: I think he was the acting administrator for a brief time.

The Hon. JOHN RYAN: I guess I don't quite understand why he would be viewing DIPNR documents that were then subpoenaed.

Ms TAYLOR: I think someone had sent them to him.

The Hon. JOHN RYAN: Right. I think, for the moment, that's sufficient.

CHAIR: Sylvia Hale.

Ms SYLVIA HALE: Could you give us a time when you are saying you were advised by Virginia Knox that the papers had been subpoenaed? Was that occasion with Gary Payne also—

Ms TAYLOR: No, I wasn't advised by Virginia Knox that any papers had been subpoenaed.

Ms SYLVIA HALE: Sorry, we don't have the benefit of your statement, so it is very difficult. Could you tell me the time or the occasion on which Gary Payne was involved?

Ms TAYLOR: Sometime following 22 June I was advised by Virginia Knox, the chief of staff to the Minister for Local Government, that the acting administrator of Liverpool council, Mr Gary Payne, had raised further that he had been sent some DIPNR file papers. The matter had been raised with me as a courtesy to let me know that departmental papers had been circulating.

Ms SYLVIA HALE: But, in fact—

Ms TAYLOR: I don't know. I can't member the exact date.

Ms SYLVIA HALE: —Ms Kibble had been appointed as the administrator of Liverpool council back in March. So to be still under the misapprehension that, somehow, Gary Payne was acting administrator is somewhat odd.

Ms TAYLOR: I think you'll find that Ms Kibble might have gone overseas on a holiday and Mr Payne was acting for her in her absence. That's my understanding. But I can't be 100 per cent sure about that. I think that's my understanding of the situation.

Ms SYLVIA HALE: How well do you know Michael Meagher?

Ms TAYLOR: Could you be more specific?

Ms SYLVIA HALE: Well, did you first encounter him when he became chief of staff, or had you encountered him prior to—

Ms TAYLOR: No, I'd never met him before. I met him when I became chief of staff to Minister Knowles. I hadn't met him beforehand.

Ms SYLVIA HALE: You hadn't met him before?

Ms TAYLOR: No.

Ms SYLVIA HALE: How often have you discussed this matter with him?

Ms TAYLOR: I couldn't tell you.

Ms SYLVIA HALE: You wouldn't—

Ms TAYLOR: I don't remember.

Ms SYLVIA HALE: Well, you seem to have a very good recollection of everything else that happened. Would it be once, twice, a dozen times?

Ms TAYLOR: Well, I don't want to speculate on the number of times because I don't recall the exact number. But the fact is that since this became a very significant media issue for my Minister I have spoken to Michael about it on many occasions. The exact number I wouldn't like to speculate about, though.

Ms SYLVIA HALE: I think you're saying on 21 April you had a conversation with Emilio Ferrer, is that correct?

Ms TAYLOR: Yes.

Ms SYLVIA HALE: And that's when you first became aware of Orange Grove and you were told that Minister Knowles had opened the centre, that the Land and Environment Court had subsequently overturned the development approval and that Liverpool council had lodged a draft LEP to rezone the site?

Ms TAYLOR: No, I'll just correct that.

Ms SYLVIA HALE: Sorry.

Ms TAYLOR: My recollection of that meeting was that there was a request to rezone the site.

Ms SYLVIA HALE: Right.

Ms TAYLOR: I don't know—

Ms SYLVIA HALE: From whom.

Ms TAYLOR: —whether it was from Liverpool council.

Ms SYLVIA HALE: Right. Okay. A request to rezone as such, and Ferrer has said to you it's not a matter involving the Minister, therefore he should keep out of it.

Ms TAYLOR: That's correct.

Ms SYLVIA HALE: Right.

Ms TAYLOR: He in fact explained to me, I think it was at that meeting, that LEP's were dealt with by the assistant Minister.

Ms SYLVIA HALE: Did he, at that meeting with him, indicate to you the very serious allegations that were made about the alleged corruption surrounding the planning process?

Ms TAYLOR: My recollections of that discussion with Emilio are exactly as I have put them in my statement. I'm happy to read them for you again, if you want.

Ms SYLVIA HALE: So you're saying at that stage he didn't say that Minister Knowles had been on this, you know, these allegations that Mark Ryan had made—

Ms TAYLOR: No.

Ms SYLVIA HALE: —to Graham Wedderburn and had been passed on to Michael Meagher, there was no suggestion, his name wasn't mentioned in that context that all?

Ms TAYLOR: My reflection of that conversation is as I have already said in my statement. Mr Ferrer may have said other things, but I don't recall.

Ms SYLVIA HALE: That was 21 April?

Ms TAYLOR: At the time I was dealing with much more pressing matters. I was preparing the Minister's speech for the following day when he announced the metropolitan strategy.

Ms SYLVIA HALE: Still, when you've got at the very highest level of government your Minister's name being mentioned in the context of awareness of corrupt influence and stench and smell surrounding a process, I find it difficult—

Ms TAYLOR: I don't recall those words being used.

Ms SYLVIA HALE: No. Okay, fine.

Ms TAYLOR: My recollection is as I have said to you in my statement.

Ms SYLVIA HALE: Okay. So, on 22 July you had a phone conversation with Mark Ryan. When exactly did you attempt to obtain the diagram that Mr Ryan produced on appearance?

Ms TAYLOR: I don't recall the date, but I think it was the day that he tabled the diagram or the day that he presented it to the inquiry.

Ms SYLVIA HALE: Okay and when you looked at that diagram did you see your Minister's name on it?

Ms TAYLOR: Yes.

Ms SYLVIA HALE: Did you attempt—did you speak to the Minister about his name being on that diagram?

Ms TAYLOR: I don't remember. I don't recall having a conversation with him about it.

Ms SYLVIA HALE: So we've got the diagram that's been splashed across—

Ms TAYLOR: No, I may have, but I can't recall.

Ms SYLVIA HALE: But it's been across all the newspapers, the telegraphic, the herald, on the television, whatever. Obviously, there was an implication that somehow he was enmeshed in this, because that was the whole point, I understand, of producing the diagram to show these things and connections and arrows pointing to and from people. Have you since asked the Minister about whether there was any substance in these allegations?

Ms TAYLOR: What allegations?

Ms SYLVIA HALE: Well, is there any substance? Why? Have you asked him why his name appeared on that diagram?

Ms TAYLOR: I don't think the Minister would know why his name appeared on that diagram. That diagram was prepared by someone else.

Ms SYLVIA HALE: That was prepared by Mark Ryan, presumably.

Ms TAYLOR: Yeah. So as to why the Minister was included on it, I don't know.

Ms SYLVIA HALE: But can I put it to you that that web of connections was sufficiently important for Mark Ryan to seek an interview with Mr Carr, and actually get one very speedily with Mr Wedderburn. It was sufficiently important for Mr Wedderburn to go to Mr Carr, Mr Carr issue instructions that they were to follow the letter of the law. It was in this joint meeting between Mr Meagher, Mr Wedderburn, Mr Ferrer and in all of these meetings there's Mr Knowles. And are you suggesting at no stage did anyone attempt to establish, or at least you didn't as his chief of staff, you didn't make any attempt to somehow say, "Hold on here. I've got no involvement" or, "My Minister has no involvement with these matters."

Ms TAYLOR: The Minister has made a number of statements about his involvement in this matter.

Ms SYLVIA HALE: So you didn't use your—

Ms TAYLOR: No, I didn't say that at any stage I hadn't.

Ms SYLVIA HALE: But you say you did.

Ms TAYLOR: I just said that I don't recall the time and nature or the circumstances of discussing this.

Ms SYLVIA HALE: So you did ask the Minister about it?

Ms TAYLOR: About what?

Ms SYLVIA HALE: About these allegations.

Ms TAYLOR: His role, or—

Ms SYLVIA HALE: Or what role—

Ms TAYLOR: What particular allegations do you mean?

Ms SYLVIA HALE: Well, this is one of the difficulties because there never have been any concrete allegations made.

The Hon. JOHN RYAN: Yeah, that's the problem.

Ms SYLVIA HALE: That's the whole problem we face.

The Hon. JOHN RYAN: Everybody says they made allegations but nobody has actually told us what they are yet.

Ms SYLVIA HALE: There's been nothing concrete.

Ms TAYLOR: The only things I've spoken to my Minister about are the issues that have involved him and his role in opening the centre.

Ms SYLVIA HALE: Goodness me! I would've thought—

Ms TAYLOR: And the matters that he has spoken about are the public record. They're the things that I've concerned myself with.

Ms SYLVIA HALE: It seems to be not a hugely great regard for his public reputation in that case, I would've thought.

The Hon. AMANDA FAZIO: Point of order.

Ms SYLVIA HALE: I would've thought it would be one of your concerns as chief of staff.

The Hon. AMANDA FAZIO: Point of order, Madam Chair.

CHAIR: Ms Fazio.

The Hon. AMANDA FAZIO: Ms Sylvia Hale is supposed to be asking questions relating to the terms of reference of Ms Taylor. She is now demonstrating publicly that she subscribes to every conspiracy theory under the sun, and I'd ask you to draw her back to the terms of reference. And, in fact, in asserting to Ms Taylor that she didn't care about her Minister's reputation, in fact, I think she is attacking the professional standing of Ms Taylor as chief of staff and I think she should withdraw that comment.

Ms SYLVIA HALE: To the point of order.

CHAIR: Sylvia Hale.

Ms SYLVIA HALE: Fundamental to this inquiry and one of the more interesting aspects of it has been the conspiracy theory that has been advanced, particularly by Westfield. So it seems to me that conspiracies are very much at the centre of what we're inquiring into. It's a question of who concocts the conspiracy is what we're trying to ascertain.

The Hon. AMANDA FAZIO: Further to the point of order.

CHAIR: Amanda Fazio.

The Hon. AMANDA FAZIO: I wasn't present at the hearing when Westfield displayed the diagram in question, but my understanding of it was it was a series of names with arrows pointing those to and from different names and Mr Ryan did not, in fact, go into any detailed explanation of what this corrupt web was that he was supposedly demonstrating. In fact, he was just basically showing a hypothetical list of links between different names. And how Ms Hale can construe some, you know, severe allegations of corruption from that, I think, it generally reflects more on her than the evidence that has been put before the Committee.

CHAIR: Okay. There's no point of order.

Ms TAYLOR: In fact, if I can just do that, my recollection of the diagram has an arrow going from my Minister to his department, which is an entirely appropriate link. It has another one going to, I think, a branch of the ALP. I don't see anything conspiratorial about that.

Ms SYLVIA HALE: Yeah. But, you see, the problem we face here at the Committee, and I'm sure you understand—

The Hon. JAN BURNSWOODS: Madam Chair.

CHAIR: Order!

The Hon. JAN BURNSWOODS: Ms Hale's time had, I believe, expired.

CHAIR: Yes, it has.

The Hon. JAN BURNSWOODS: Yes, I thought I heard it.

CHAIR: Mr Oldfield.

The Hon. DAVID OLDFIELD: Thank you. Ms Taylor, are you aware of a letter written by Mr Noel Hemmings, QC, to Mr Knowles with regard to the lack of opportunity extended to Gazcorp to meet with the Minister, given that Westfield had, in fact, spoken to the Minister? Are you aware of such a letter?

Ms TAYLOR: I think I do recall seeing a letter, yeah.

The Hon. DAVID OLDFIELD: Did Mr Knowles reply to the letter?

Ms TAYLOR: I'll have to take that on notice. I'm not sure.

The Hon. DAVID OLDFIELD: Right. Didn't you say a few hours ago that there wasn't any correspondence on these matters?

Ms TAYLOR: No, I didn't say that.

The Hon. DAVID OLDFIELD: I thought you had previously.

Ms TAYLOR: I said there were no briefings prior to the decision being made.

The Hon. DAVID OLDFIELD: But you are fairly aware of a letter from Gazcorp's QC complaining about not being able to get a meeting with Mr Knowles?

Ms TAYLOR: Yeah, I do recall seeing a letter along those lines, yeah.

The Hon. DAVID OLDFIELD: Okay. Was there any other correspondence at all from anybody on this matter, be it from Westfield or from Mark Ryan directly to the Minister in relation to Orange Grove or to your office?

Ms TAYLOR: To the best of my recollection there was never any correspondence from Westfield. There was correspondence, I think, from AMP. But I don't recall exactly, so I'd be happy to take that on notice.

CHAIR: Thank you.

The Hon. DAVID OLDFIELD: Thank you. Do you know Mr Frank Lowy at all or his son, Stephen, or any of the Lowy family?

Ms TAYLOR: I think in the time that I worked at Westfield I met Mr Lowy once and I would've met Stephen.

The Hon. DAVID OLDFIELD: Are you a member of the ALP?

Ms TAYLOR: I am, yes.

The Hon. DAVID OLDFIELD: You are. You said a few moments ago that you felt that Minister Beamer needed to act, or should be left in a position where she acted unassisted. You didn't think there was any requirement for your Minister to become involved. Is that right?

Ms TAYLOR: That's correct. She deals with LEPs all the time without any involvement by my Minister.

The Hon. DAVID OLDFIELD: Are you surprised, then, that the Premier didn't share that view and that he felt it necessary to send his chief of staff down to talk to her about how she should act in this matter?

Ms TAYLOR: You're asking me to speculate about my feelings on a matter. I don't see how that assists the inquiry.

The Hon. DAVID OLDFIELD: Do you see then—with that knowledge, do you see any apparent contradiction in that the Minister who is assisting your Minister, your office believes in a position of not requiring any assistance, yet above you the Premier doesn't take that view and he sent someone down to tell her what to do?

Ms TAYLOR: It's not my understanding that the Premier did send someone down to tell her what to do.

The Hon. DAVID OLDFIELD: Well, depending on whether you want to talk about—

Ms TAYLOR: That may be your view.

The Hon. DAVID OLDFIELD: Well, depending on whether you want to say or not whether she was instructed or told what to do, or whatever, certainly—

The Hon. JAN BURNSWOODS: Point of order, Madam Chair. It's not Mr Oldfield's place, as we have discussed and taken points of order on frequently in the past, to anticipate decisions and the deliberations of this Committee. If he wants to ask the witness a question, that's fine. But these questions that are prefaced by his opinions on all kinds of matters not within the purview of the witness are quite out of order.

The Hon. DAVID OLDFIELD: To the point of order: Madam Chair, it's not my opinion as to whether the Premier sent someone to see Minister Beamer; it's a matter of a testimony given by the Premier's Chief of Staff that he went down and saw Minister Beamer. It might be questionable as to whether she was instructed, advised, told to or whatever but it is a matter of very specific testimony before this hearing that Mr Wedderburn met with Ms Beamer and gave her at least advice—at the very least advice—about this matter.

The Hon. JAN BURNSWOODS: Further to the point of order: Madam Chair, I would almost rest my case given what Mr Oldfield has just said. He is in fact speculating: talking about what someone else may or may not have said to someone else who then may have gone and visited someone else and said something to them. None of these things are a matter for this witness. If Mr Oldfield wants to ask the witness questions that's fine, but he has a habit of prefacing questions by assertions which usually have no basis in fact and then badgering the witness when the witness tries to make that point. I would ask you again to draw him to order.

The Hon. DAVID OLDFIELD: Madam Chair, if we could take points of order on stupidity they would be taken every moment on this member of this Committee. For her to at any point assert that that testimony has not been heard by this Committee is just an absolute nonsense.

CHAIR: Okay, if I could just—

The Hon. JAN BURNSWOODS: When in doubt resort to abuse.

CHAIR: Order!

The Hon. AMANDA FAZIO: Madam Chair, before you rule on the point of order, we have had considerable advice from the Clerks, particularly during the last week—or not advice from the Clerks but we have had it clarified—in terms of what is unparliamentary language and what should and should not be said in terms of adverse reflections both on people appearing before these Committees and in relation to members of these Committees. The comments that Mr Oldfield made in relation to stupidity I think are offensive and unparliamentary and I would ask you to ask Mr Oldfield to withdraw them. They don't bring any credit at all on this inquiry.

CHAIR: Yes, if the member finds it objectionable you might withdraw that particular comment.

The Hon. DAVID OLDFIELD: Thank you, Madam Chair. No, I choose not to; I find it appropriate.

CHAIR: Mr Oldfield, if the questions could just relate to Ms Taylor's direct experience that would be fine.

The Hon. DAVID OLDFIELD: Sure. Ms Taylor, what actually is the relationship of operations between your office and Ms Beamer's? I mean, I understand Ms Beamer is the Minister assisting Minister Knowles. Do they meet regularly? Are there discussions relating to different matters of planning or is Minister Beamer just completely left out there: "This is what you do, thanks very much. Don't want to know about it."

Ms TAYLOR: There are quite separate divisions between the two offices. I am happy to take that on notice and provide you with a list of the division of responsibilities. Apart from that, from time to time we usually have meetings, sometimes weekly, sometimes fortnightly. Depending on what's on, we'll have a meeting between the two offices.

The Hon. DAVID OLDFIELD: Thank you. When Mr Ryan contacted you, it was specifically him who called you most recently?

Ms TAYLOR: To when are you referring?

The Hon. DAVID OLDFIELD: Has there been more than one time that he has called you recently?

Ms TAYLOR: No, I am just asking you to when are you referring when you said he contacted me. I've known Mark Ryan since 1993.

The Hon. DAVID OLDFIELD: Didn't he call you in relation to these matters in recent times?

Ms TAYLOR: No.

The Hon. DAVID OLDFIELD: I'm sorry; I must have misheard something you said earlier. I thought you said that Mr Ryan had been in contact with you recently.

Ms TAYLOR: We'd been in contact but he didn't call me.

The Hon. DAVID OLDFIELD: You called him.

Ms TAYLOR: I called him.

The Hon. DAVID OLDFIELD: So you called him. Okay. Thank you for clarifying that. That's all I have.

CHAIR: Government members, have you got any questions?

The Hon. JAN BURNSWOODS: Not at this stage.

CHAIR: Mr Ryan?

The Hon. JOHN RYAN: Just two matters. Did the Minister know about your previous working experience with Westfield?

Ms TAYLOR: Yes, he did.

The Hon. JOHN RYAN: Did either of you consider it appropriate to disclose it given that relationships with Westfield and the Government had become a matter of public comment?

Ms TAYLOR: What do you mean by "disclosing it"?

The Hon. JOHN RYAN: Well, I guess—

Ms TAYLOR: For what reason and to whom?

The Hon. JOHN RYAN: In the end it became known, as a result of a journalist I think ultimately asking your office had you worked for Westfield. Was it not appropriate perhaps to reveal—

Ms TAYLOR: Our office had no role in this matter. There was no reason for me to disclose it publicly. The Minister was aware of it but it wasn't an issue because our office and I personally had no role in it. Why would I—

The Hon. JOHN RYAN: Only the fact that the Minister had opened the centre and there had been representations to Westfield.

Ms TAYLOR: That was before I arrived in the office.

The Hon. JOHN RYAN: That's true.

Ms TAYLOR: So it had nothing to do with me. I had no role in the opening of the centre.

The Hon. JOHN RYAN: Was the Premier's office made aware of your prior working experience with Westfield at any stage when he was answering questions in the media?

Ms TAYLOR: I don't recall discussing it with him. I mean, it's no secret that I worked for Westfield but I don't recall specifically discussing it with anyone.

The Hon. JOHN RYAN: And how did you come to disclose it? How did it come to be disclosed to the media that you were working—

Ms TAYLOR: To the media? I wouldn't have a clue. You might be able to answer that.

The Hon. JOHN RYAN: I can't. I'm aware of it being mentioned in the *Australian Financial Review*. Was your office—were you—asked by a journalist—

Ms TAYLOR: I've never been asked by a journalist if I worked for Westfield. If can just add to that, subsequent to it being discussed by people that I had worked in the media, calls were made to our office for confirmation of that, but it was already public knowledge.

The Hon. JOHN RYAN: Have you had any conversations with Mr Wedderburn since the 12th of July?

Ms TAYLOR: Since the 12th of July?

The Hon. JOHN RYAN: Yes, that was when the matter was announced.

Ms TAYLOR: Yeah, of course I have.

The Hon. JOHN RYAN: Okay. Were they about Orange Grove?

Ms TAYLOR: I've had discussions with Graeme Wedderburn on a range of issues since then, including Orange Grove.

The Hon. JAN BURNSWOODS: As you said in your statement.

Ms TAYLOR: Yeah, as I said my statement.

The Hon. JOHN RYAN: Did Mr Wedderburn ever tell you that he had met with Westfield?

Ms TAYLOR: Um, I don't recall how—I mean, I know now that he's met with Westfield but I don't recall when or where I became aware of that. It was pretty widely reported in the media.

The Hon. JOHN RYAN: Well, it was eventually. Were you aware of it prior to it being mentioned in the media?

Ms TAYLOR: Um, I couldn't tell you.

The Hon. JOHN RYAN: Okay.

CHAIR: Ms Hale.

Ms SYLVIA HALE: Ms Taylor, did you work in the office of the former Prime Minister at the same time as Mark Ryan?

Ms TAYLOR: For a short period, yes. I started in the office in 1993 and for a short period Mr Ryan also worked in the office.

Ms SYLVIA HALE: So on the 12th of July I think you said Orange Grove had become a large media issue. I think your Minister was away on holidays and from the 12th of July onwards that's when you became closely involved and presumably started to look into the background. Now you spoke to Mark Ryan on the 22nd of July—10 days later—when presumably you were trying to get all the information you can.

Ms TAYLOR: That's correct.

Ms SYLVIA HALE: Did you ask him, either as a friend or as a corporate head to the Chief of Staff to the Minister, anything about what he said in that meeting with Graeme Wedderburn?

Ms TAYLOR: No.

Ms SYLVIA HALE: You didn't, even though it involved—

Ms TAYLOR: Let me read my statement for you.

Ms SYLVIA HALE: No. I'm sorry, I just want—

Ms TAYLOR: Well, I've already answered your question. I'm happy to read it again.

The Hon. AMANDA FAZIO: Yes, please.

Ms SYLVIA HALE: But, but—

Ms TAYLOR: On 22 July I had a telephone conversation with Mark Ryan from Westfield, which lasted approximately 20 or 30 seconds. This was in relation to a media release issued by Westfield on the Orange Grove matter, which had mentioned my Minister, Craig Knowles. That was the extent of that conversation.

Ms SYLVIA HALE: So you are saying—

Ms TAYLOR: I didn't canvass any other issues with him.

Ms SYLVIA HALE: that despite on the 22nd of July, from the 12th of July you're determined to get on top of the issue because you say your Minister is involved, 10 days later you speak to a key person—namely, Mark Ryan, whom you had known for at least decade; a fellow member of the Labor Party, whatever—and you're saying not on that occasion nor subsequently, despite there being these diagrams, these allegations, this whole web of influence, at no stage did you ask Mr Ryan was there any substance or truth to any of the allegations?

Ms TAYLOR: No, I had no reason to. I contacted Mr Ryan to clarify a point in relation to his media release and that was the only conversation I have had with him.

Ms SYLVIA HALE: So despite your determination to try and get hold of every piece of paper to find out what was really going on with this issue, here you had a prime opportunity to talk to one of the key people—the person who had set it all in train; you know, it was his meeting, his talks about the problems involving—you've got an opportunity to speak to him and yet—

Ms TAYLOR: I'm sorry—

Ms SYLVIA HALE: you didn't go to these very critical issues.

Ms TAYLOR: I know I'm not giving you the answer you want.

Ms SYLVIA HALE: But I find it astonishing.

Ms TAYLOR: Well, you may find it astonishing.

The Hon. AMANDA FAZIO: We find some of the things you say astonishing.

Ms SYLVIA HALE: Would you agree there might be a public perception there are none so blind—

Ms TAYLOR: No, I wouldn't.

Ms SYLVIA HALE: as those that will not see.

Ms TAYLOR: No, I wouldn't. I wouldn't agree. That may be your perception. I think that probably reflects on the sort of person you are rather than the sort of person I am.

CHAIR: Order!

The Hon. DAVID OLDFIELD: How did she find out what sort of person you are? Who told her?

The Hon. JAN BURNSWOODS: Oh, it's pretty obvious.

Ms SYLVIA HALE: Thank you, Ms Taylor.

CHAIR: Okay. If there are no more questions, thank you for your time today, Ms Taylor. We appreciate your assistance to the Committee.

(The witness withdrew)

JENNIFER WESTACOTT, Director-General, Department of Infrastructure, Planning and Natural Resources,

MICHAEL JOHN ASTILL, Lawyer, Department of Infrastructure, Planning and Natural Resources,

SAM HADDAD, Deputy Director-General, Office of Sustainable Development, Assessment and Approval, Department of Infrastructure, Planning and Natural Resources, on former oath: and

GLENN NEVILLE SMITH, Executive Director of Corporate Services, Department of Infrastructure, Planning and Natural Resources, 10 Valentine Avenue Parramatta, sworn and examined:

CHAIR: Mr Smith, I presume you are appearing before the committee accompanying Ms Westacott?

Mr SMITH: That is correct.

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

Mr SMITH: Yes, I am.

CHAIR: I will give you the standard reminder that if you should consider at any stage certain evidence you wish to give or documents you may wish to tender should be seen only by the Committee, please indicate that fact and the Committee will consider your request.

The Hon. DAVID OLDFIELD: Ms Westacott, do you have a drivers licence?

Ms WESTACOTT: Yes.

The Hon. AMANDA FAZIO: Point of order: What has this to do with the terms of reference?

The Hon. DAVID OLDFIELD: Well, Ms Westacott has answered the question so I suppose it does not matter.

The Hon. JAN BURNSWOODS: To the point of order: Ms Fazio took a point of order. Mr Oldfield's opinion as to what does or does not matter has nothing to do with the point of order. It is your responsibility, as Chair, to rule on the point of order.

CHAIR: Order! If we can have questions which are within the terms of reference, please.

The Hon. DAVID OLDFIELD: Ms Westacott, you would be familiar with the independent auditor's report, which I acknowledge you commissioned, I understand?

Ms WESTACOTT: Correct.

The Hon. DAVID OLDFIELD: Are you aware that on 13 August John Ryan asked you:

Was Ms Alice Spizzo appointed to the position she currently holds with the normal public service requirements ...

And so on. You said, "Yes."

Ms WESTACOTT: That is correct

The Hon. DAVID OLDFIELD: When you said that, you were not exactly telling the truth, were you?

Ms WESTACOTT: That is not correct.

The Hon. JAN BURNSWOODS: Point of order: Again I ask you to ask Mr Oldfield to show some politeness in the way he asks his questions of the witness. We seem to be going over and over the same ground. I acknowledge this is the second occasion today you have requested him to ask his questions properly. I would appreciate it if you would do that again.

The Hon. JOHN RYAN: To the point of order: The remarks made then by Mr Oldfield were not greatly different to similar remarks that Ms Burnswoods made to Mr Turrisi earlier during the day when she made reference to how good his memory was and said things like his answers did not hang together, and so on. I would not like to see Mr Oldfield's language become stronger than it is but it is not yet inappropriate in parliamentary questioning.

CHAIR: I know it is late in the day. If we can just stick to questions within the terms of reference and reasonably polite.

The Hon. DAVID OLDFIELD: Let me put it to you this way, Ms Westacott. When Mr Ryan asked you that question with regard to the appropriateness and normal public service requirements of Ms Spizzo's appointment you answered, yes, that that had occurred. However, if we look at the auditor's report on Ms Spizzo's appointment, that auditor's report makes it fairly clear that it was not normal, the way it took place. In sections of the report it says, for example, that available in the records in Alice Spizzo's file do not include her qualification resume. It talks about the requirements of her being reappointed every four months, whereas you appointed her for a 12-month period. As it says in the report, there are implications that lack of documents and records in support of Alice Spizzo's temporary employment, that is, qualification resume and outcome of interview or referencing could attract criticism for lack of transparency or inadequate record management and, from this, aspersions on the integrity of the appointment.

Ms WESTACOTT: I understand the question.

The Hon. DAVID OLDFIELD: So, would you not agree that your answer to this having been done appropriately is somewhat in conflict with the facts contained in the auditor's report?

Ms WESTACOTT: As I recall, the question on 13 August was a question relating to Ms Spizzo's current position, current appointment, which I think we have been through several times at estimates and at this Committee. Ms Spizzo has given evidence herself. In her current position she went through a competitive selection procedure, and in terms of her section 38 appointment, as I said at the estimates committee the other night, I acted on advice. I appointed her under section 38 on the advice of my HR branch.

The Hon. DAVID OLDFIELD: Given what you said then and the advice of the HR aside, can I take it that you acknowledge when she was originally appointed by you and when she was then appointed for 12 months following the first few months, that was not appropriate and not in accordance with the department, and it is only since this auditor's report that she has now, in her current position, been appointed appropriately?

Ms WESTACOTT: No, not since the auditor's report. I made it very clear at the estimates committee that it was always a term of Ms Spizzo's appointment that she would have to go through a competitive selection. That competitive selection happened earlier in the year and that competitive selection complied with public sector guidelines.

The Hon. DAVID OLDFIELD: Why was the auditor so apparently scathing in what he suggested were the implications of the way Ms Spizzo had been appointed?

Ms WESTACOTT: I do not believe the auditor is scathing. As I said to the Committee the last time we talked about this, and as I said at the estimates committee, I commissioned this audit. I commissioned it because I was concerned about some of the housekeeping matters in the HR branch. I would like to read a statement from the auditor who prepared the report. This is a statement to his supervisor. He says,

He wants to express his shock and dismay that the draft discussion paper is now being used to attack the director-general. As I understand it—

He is talking to his supervisor—

from your brief that the exercise was to ascertain and report on any control weaknesses in the department's appointment procedures and suggest to senior management measures to improve and strengthen controls if required. What I identified—

I am still quoting from him—

were weaknesses largely related to documentation of processes. I did not find corrupt practices. I labelled the paper draft report for discussion only to give concerned officers an opportunity to respond to my observation. They were not findings of corrupt conduct by any individual. There was no evidence of this.

I asked the audit group to look into the housekeeping and procedural matters relating to the appointment of all contractors and all consultants in the department. That is what it did.

The Hon. DAVID OLDFIELD: So, you did not feel there was a need for you to commission an audit to create evidence of your desire to clean up what you created inappropriately in the first place?

Ms WESTACOTT: I take great offence at that suggestion.

The Hon. JOHN RYAN: I am not surprised.

The Hon. DAVID OLDFIELD: Given what you have said with regard to this auditor of yours—

The Hon. JAN BURNSWOODS: Point of order: The witness has taken offence. I think probably most members of the Committee similarly. I ask you again, at the very least, to ask Mr Oldfield to ask questions rather than preface them with offensive, insulting allegations in the form of assertions not based on anything this Committee has discussed or determined. His method of questioning, as you know, as you have on several occasions pulled him up on this today, is quite inappropriate.

CHAIR: Mr Oldfield, if you could just continue to ask questions without the prefatory material.

The Hon. JOHN RYAN: If I may interpose for a moment. Ms Westacott was reading from a document. I wonder if you could care to tell the Committee what the document is and the circumstances under which it came into existence and the person who is giving evidence through that document?

Ms WESTACOTT: It is a document from the auditor who prepared the audit report you have. It is a document to his supervisor. I am very happy to table it with his permission.

CHAIR: You have to get his permission first?

Ms WESTACOTT: I am assuming he will be happy for it to be tabled but I would like to check with him. As I said, these are officers doing their job and I think we owe them the respect to seek their agreement.

The Hon. JOHN RYAN: Can you explain how the document you have come to arrive the day you quoted from it extensively to the Committee? Have you sought his permission to do that, and how did you get it?

Ms WESTACOTT: I was given it by Mr Smith. I do not know the circumstances. Mr Smith can speak for himself. I understand that the auditor in question was extremely distressed that his report had been leaked and had been taken out of context.

CHAIR: So, Ms Westacott, if I can just clarify for the record, you will seek authority to have that document provided to the Committee? Thank you.

The Hon. DAVID OLDFIELD: Ms Westacott, short of getting your auditor in here to talk about it being taken out of context, was this out of context when you said this in the report:

The situation would also be inconsistent with ICAC guidelines.

Where he also said:

This could give rise to the perception or actual conflict of interests.

Of course, this is in relation to Sharon Kennedy in BSR. Would he also have considered that was all out of context? Would he have thought this was out of context, for example:

Implication: Given the range and value of projects BSR Solutions is undertaking and the number of BSR Solutions staff under contract, the department could be viewed as a captive market. Continued use of BSR Solutions for new I&T projects given that it is not an approved supplier of IT contract personnel would ... this perception and attract criticism.

Did he mean all that out of context as well? Could we perhaps get a note from him next week explaining that one?

Ms WESTACOTT: Well, he makes his comments about the entire report. He makes his comments about the way the report is being used to allege corrupt conduct. He makes his comments about what he was going to, procedural matters, not probity matters. As I said, I commissioned the audit group to do the work. I commissioned it because we had just created a new department. We had an enormous amount of work to do, which I have explained to this committee before, the re-creation of the Native Vegetation Act, the re-creation of a whole new infrastructure for natural resource management, the merging of four administrations, the creation of an integrated I&T. They were all the things we had done. We had brought together a number of systems, and I asked the audit group to look at the engagement of contractors and consultants. I should also say, and I said this at the estimates committee, the previous administration had a history of engaging temporary staff and engaging consultants, and I wanted to be sure that we are in the process of, one, winding them down and, two, making sure that procedures were being followed.

The Hon. DAVID OLDFIELD: I understand your answer but I put it to you again, for example, here in the report under "issues", the auditor says:

BSR Solutions preferred different interim I&T strategies identifying projects and priorities which was subsequently assigned and implemented by BSR.

Hence it is quoting a—

The Hon. JAN BURNSWOODS: Point of order: This point of order has come up over and over again. This matter was discussed in the estimates committee last Monday and it has been discussed in this committee in the course of this inquiry. On several occasions the question has been asked what this has to do with the terms of reference. We are now labouring again over the same questions about the same pieces of paper. It is in the transcript of this Committee as an inquiry. It is in the transcript of this Committee as an estimates committee from last Monday. I am still waiting to find out what this has to do with our terms of reference, but even if it had anything to do with our terms of reference, we have been over this ground again and again.

CHAIR: Ms Westacott obviously came prepared to answer the question because she has some additional material. However, I suggest that Mr Oldfield get closer to the specifics of Orange Grove that relate to the terms of reference. There may be another opportunity in another forum to pursue that line of questioning if he wishes.

The Hon. DAVID OLDFIELD: Yes, of course, we could do that couldn't we! We could have another self-referenced inquiry.

The Hon. PETER PRIMROSE: I am sure we will.

The Hon. DAVID OLDFIELD: Ms Westacott, Mr Wedderburn paid you substantial compliments during the course of his evidence. He said that you are without doubt one of the best public servants in the country. Has he spoken to you specifically about what it is that so fills him with admiration in relation to your work?

The Hon. AMANDA FAZIO: Point of order: Again I raise the issue of relevance. Mr Wedderburn's—

The Hon. DAVID OLDFIELD: Perhaps we could ask Mr Wedderburn if he—

The Hon. AMANDA FAZIO: No. I have the call and I have a point of order. Why do you not just be quiet for a minute? My point of order is that it does not matter if Mr Wedderburn made those comments when he was giving evidence to this inquiry. The simple fact is that we are looking into the Orange Grove development; we are not discussing the relative merits of different senior members of the State public service. I fail to see what Mr Oldfield's question has to do with the terms of reference. I do not know why he has it in for some of the senior public servants of this State. It has nothing to do with the Orange Grove inquiry. Madam Chair, I ask you to rule the question out of order.

The Hon. DAVID OLDFIELD: To the point of order: The point of the line of questioning goes to the credibility of the relationships and these webs of influence that we see. It appears, and there is certainly material and testimony that upholds such indications to a degree, that we have a whole flow backwards and forwards of ALP members and former staff of Ministers who then go backwards and forwards between Westfield to the department and back to the Ministry and so on. Someone must be there appointing these people.

The Hon. AMANDA FAZIO: You have joined Sylvia's conspiracy theory.

The Hon. DAVID OLDFIELD: It appears from what we have heard that Ms Westacott has been most compliant as one of the country's best public servants in appointing different people at different times, according to independent auditors' not exactly according to the rules. All of that relates to the credibility of the evidence given in relation to Orange Grove and the relationships between Ms Westacott, Mr Wedderburn, Mr Ryan, Mr Knowles and so on.

The Hon. AMANDA FAZIO: Further to the point of order: Madam Chair, I ask that you direct Mr Oldfield to withdraw the use of the word "compliant" in relation to Ms Westacott. I find that most offensive.

The Hon. DAVID OLDFIELD: I always thought compliant was the most desired characteristic in a public servant.

The Hon. AMANDA FAZIO: I am speaking if you do not mind.

The Hon. DAVID OLDFIELD: Surely it is the most desired trait.

The Hon. AMANDA FAZIO: That shows how little experience you have in the public service.

The Hon. DAVID OLDFIELD: You guys make sure they are compliant because you pick your own people and put them in the jobs.

CHAIR: Order!

The Hon. DAVID OLDFIELD: I have finished with my line of questioning anyway.

Ms WESTACOTT: I would like to respond to that comment. I have worked for both administrations. I was appointed to the senior executive service by Joe Schipp. I was further appointed by Robert Webster. I have worked in Victoria and New South Wales. I was in Victoria for 18 months as the Director of Housing before I was asked by the Premier to be the Secretary of the Department of Education and Training. I won the Centenary Medal in 2003 for my services to the public and the community.

The Hon. DAVID OLDFIELD: You only have to have a member of Parliament nominate you.

The Hon. AMANDA FAZIO: Just be quiet!

The Hon. DAVID OLDFIELD: I nominated 10 people who won.

The Hon. PETER PRIMROSE: What a puerile interjection!

The Hon. AMANDA FAZIO: You are pathetic!

The Hon. DAVID OLDFIELD: She won the Centenary Medal, goodness gracious me! Do you have a Victoria Cross as well?

The Hon. AMANDA FAZIO: You are so offensive.

The Hon. PETER PRIMROSE: And he is on your side, John Ryan. You are responsible for this!

The Hon. JAN BURNSWOODS: You and Brogden's lackeys keep handing him the questions.

The Hon. DAVID OLDFIELD: I am not on John's side; I am on the side of the 450 people who lost jobs at Orange Grove.

The Hon. PETER PRIMROSE: You are responsible.

The Hon. JAN BURNSWOODS: You are urging Bargshoon to run in the Federal election. You two are in cahoots with Brogden.

The Hon. JOHN RYAN: I have not urged anyone to do anything.

The Hon. JAN BURNSWOODS: Now you raise your eyebrows because his behaviour is so disgusting.

The Hon. PETER PRIMROSE: It is alright for you to try to disavow him now.

The Hon. AMANDA FAZIO: He is the scum of the earth!

The Hon. PETER PRIMROSE: You have unleashed this person.

The Hon. JOHN RYAN: You have been making allegations and then sanctimoniously talking points of order all day.

The Hon. JAN BURNSWOODS: Not only that, you bred him in the first place. He was the Liberal candidate for Manly and then worked for Tony Abbott. You are responsible for this genetic engineering.

The Hon. DAVID OLDFIELD: It is a great lineage!

CHAIR: I do not think Ms Westacott had finished her response.

The Hon. JAN BURNSWOODS: No, Mr Oldfield interrupted her, as usual.

The Hon. AMANDA FAZIO: Rudely as usual.

Ms WESTACOTT: I am proud of my Centenary Medal. I have worked very hard in the housing area to introduce some of the most progressive reforms. They are recognised across Australia. I was at a seminar the other day at which Terry Moran, the head of Premier's and Cabinet in Victoria, made a comment to the assembled group how the work I had done in renewing disadvantaged housing estates in Victoria had set the way nationally for assisting disadvantaged people who had been concentrated on public housing estates. I introduced some of the toughest tenancy laws in the Department of Housing to deal with antisocial behaviour. I have been involved in the negotiation of many Commonwealth-State housing agreements. It is not a secret that some people come well regarded. I do not know on what Mr Wedderburn based his comments, but I am very proud of my public sector career. If that is the comment he made, that is the comment he made.

The Hon. DAVID OLDFIELD: I am happy to add that I am not suggesting at all that Ms Westacott is incompetent, as such, or lacking in ability, skills or talent.

The Hon. JAN BURNSWOODS: That is very noble of you.

The Hon. AMANDA FAZIO: How good of you!

The Hon. JAN BURNSWOODS: It would be interesting to know how you would know.

The Hon. DAVID OLDFIELD: To some degree I can judge people by what it is they say they are conversant in—

The Hon. DAVID OLDFIELD: No-one else has noticed that.

The Hon. DAVID OLDFIELD: It also allows me to understand how lacking in those areas you are. I have seen you in action and you do not have a great deal of skill or talent on any issue.

The Hon. JAN BURNSWOODS: No-one has seen any evidence of your talent for judgment or probity.

Ms SYLVIA HALE: Mr Smith, I believe Ms Westacott said that you could enlighten the Committee as to the background concerning the response to remarks made about the draft auditors' report. Can you provide any information about that and how it came to be prepared?

Mr SMITH: Earlier last week I had discussions with the general manager of internal audit, who is the supervisor of the auditor who prepared the draft report. I also had discussions with the author of the draft report. The author of the report indicated to me and to his supervisor his concern about how the report had been leaked. He volunteered the opinion in terms of how the report was designed and what the outcomes of the report were meant to convey. It was of his volition.

Ms SYLVIA HALE: It was at his initiative that a response be prepared.

Mr SMITH: That is correct.

Ms SYLVIA HALE: You said that was fine. To whom else has this response been provided?

Mr SMITH: The response was provided by the author of the report to his supervisor, the general manager of internal audit, who reports to me, and he provided it to me. I asked the author of the report whether he was happy for those observations and that response to be provided to the director-general and he said he was.

The Hon. JOHN RYAN: I have a question.

The Hon. JAN BURNSWOODS: Point of order: Madam Chair, earlier this afternoon you gave me a note stating, among other things, that the Opposition asked her—that is, Ms Westacott—questions at the Estimates committee hearings and did not need to question her further. Your note also said that if there was a consensus she could be excused from this afternoon's hearing. I took that note at face value and I assumed you were being honest.

CHAIR: Order! That is private correspondence.

The Hon. JAN BURNSWOODS: Of course, we then found that Mr Oldfield used his right—perhaps it is a right—to veto that decision. Six members of the Committee agreed that we had no reason to call Ms Westacott back again, despite all the pressure she was put under last week in terms of getting her here days after the Estimates Committee hearing took place. I repeat: The Opposition does not need to question her further. My question is: Given all of that history, why do we now have Mr Ryan seeking to ask Ms Westacott a question?

CHAIR: We can discuss that at a deliberative meeting.

The Hon. JOHN RYAN: To the point of order: To save you all the trouble, I was not going to ask Ms Westacott a question. She brought along Mr Smith, whom I did not expect to come, and there is a relevant question that I could ask him.

The Hon. JAN BURNSWOODS: A bit of hasty thought.

The Hon. JOHN RYAN: Not all. Mr Smith, what action, if any, has been taken to investigate the leak of the audit report? Have there been threats of bringing in the police to investigate the audit report leak? Are you aware of comments made by Mr Kafer, I think his name is, to members of the IT staff that he would bring in the police to investigate the leak of the audit report? Is any of that true?

Mr SMITH: It is my understanding that the independent chair of the audit committee has sought advice from the department's independent auditors, Deloitte, in regard to action that might be taken about the leaking of the documents. The department's internal auditors under contract, Deloitte, have been engaged by the chair of the audit committee to undertake that work.

The Hon. JOHN RYAN: Have there been any threats of bringing in NSW Police, particularly by Mr Kafer? Has he made that threat to IT staff?

Mr SMITH: Not that I am aware of. I know that the HR branch, along with Mr Kafer, met with the IT staff last week to deal with a number of security issues surrounding the security review. I understand the issue of the leaked document was discussed. Exactly what was discussed in that meeting I am not sure, but I can take that question on notice and get back to the Committee.

The Hon. JOHN RYAN: Are you aware of the claims made on your behalf that you were close to the point of disbanding the internal audit section as a result of the leaking of this report or this particular audit report?

Mr SMITH: No, I have never said that.

The Hon. JOHN RYAN: Are the police involved at all in investigating the leak?

Mr SMITH: Not that I am aware of. However, from my fairly rudimentary knowledge of the legislation and different parts of different legislation, I understand that accessing material that is stored on computer that is restricted and unauthorised may constitute a breach of the Crimes Act. It may also constitute corrupt conduct under the ICAC legislation. As far as I am aware, there has been no threat made to any member of staff about the engagement of the police in the process.

The Hon. JOHN RYAN: The Committee has been advised that Deloitte provided a review of this audit report at no charge. I suppose an interesting idea arises from that: Given that that review was done at no charge it may not necessarily have been independent. Can you explain to the Committee how it came to be done at no additional charge? Does that not bring into question its independence because it could be said to have been done as a favour?

Mr SMITH: I do not think the evidence given to the Committee indicated that the report undertaken by Deloitte was done at no charge. The evidence was that it was done at no additional charge. That means that Deloitte, the department's internal auditors, would be doing the work within the scope of the audit program for the current year. I understand that there will be a cost—although I have not seen the invoice yet—within the scope of the present audit program. I engaged Deloitte to undertake the independent audit review. They were engaged following a meeting on 29 June—probably the week after, about 8 July. The draft audit report, which has been referred to by the Committee previously, was completed on 29 July and forwarded to me on 2 August.

The Hon. JOHN RYAN: If the audit was a draft, why did it need to be independently reviewed? Given that it was a discussion paper anyway, why would you review a draft as opposed to the final report?

Mr SMITH: I did not seek to engage Deloitte to review the draft because it had not been completed at that stage. I engaged Deloitte as an independent auditor for an opinion in regard to the engagement by the department of BSR Solutions as an independent, objective and external view. The reason I did that was that I had discussions with the general manager of internal audit about the issue of the department's engagement of BSR Solutions, and it was as an extension of the internal audit program that I decided it was appropriate to engage Deloitte to do that work.

The Hon. JOHN RYAN: Is not the department's own audit branch independent enough?

The Hon. JAN BURNSWOODS: Point of order, Madam Chair.

Mr SMITH: No, the department—

The Hon. JAN BURNSWOODS: I have taken a point of order.

The Hon. JOHN RYAN: I know you always do but it is quicker to let the gentleman answer the question, and I have no further questions.

The Hon. JAN BURNSWOODS: This matter may or may not have been relevant to the estimates committee last Monday but I would again argue that it is of no relevance to the terms of reference of this inquiry. It was bad enough before when Mr Oldfield was attempting to make it relevant but none of the issues that Mr Ryan is raising with Mr Smith have any relevance whatsoever to the terms of reference of this inquiry.

CHAIR: I refer again to the fact that Ms Westacott herself raised some additional material and invited Mr Smith to be here.

The Hon. JAN BURNSWOODS: Further to the point of order, Madam Chair.

CHAIR: Order! I have not finished.

The Hon. JAN BURNSWOODS: Ms Westacott raised that material—

CHAIR: I have not finished.

The Hon. JAN BURNSWOODS: —in defence against the fact that this material keeps being raised by members of this Committee quite contrary to the terms of reference. If you are going to use Ms Westacott's actions in bringing along a statement from the auditor, who is then impugned just as much as she and other people in the department have been, as an excuse for dealing with something that is not within our terms of reference then I would argue that you are quite wrong in your ruling.

CHAIR: Mr Ryan I think was just about finished anyway.

The Hon. JOHN RYAN: I was about to get—

The Hon. JAN BURNSWOODS: Are you actually going to rule on the point of order, Madam Chair?

CHAIR: Yes, I am. Mr Smith would not have been here had Ms Westacott not anticipated answers to questions on this particular subject.

The Hon. AMANDA FAZIO: Now you are a mind reader.

CHAIR: Mr Ryan.

The Hon. JOHN RYAN: Mr Smith, I think, was in the process of answering the question.

CHAIR: He was interrupted.

The Hon. JOHN RYAN: I think he has been good at getting the Committee an understanding of these things. Could you explain why the department's own internal audit branch was not sufficiently independent? One imagines that audit branches are independent of the department, are they not?

Mr SMITH: The department's internal audit function comprises two parts which report through to the independent chair of the audit committee. One part is the part that was previously existing within Planning New South Wales, which is outsourced internal audit to Deloitte. The other part is an internal internal audit group with a group of employees that were previously employed within the Department of Land and Water Conservation. So the department's internal audit program for last financial year and for this financial year has two inputs: one from be the internal auditors that are staff members of the organisation and one from Deloitte. So it is totally consistent and appropriate within the scope of the internal audit program to have those auditors working on the same piece of work. What it does for the internal governance process is create a more robust, transparent and rigorous process.

The Hon. JOHN RYAN: Is that Deloitte's report in the process of being presented to the Parliament?

Ms WESTACOTT: You asked for it in the estimates committee and I said I was happy to give it to you, yes.

Ms SYLVIA HALE: Mr Astill, you are DIPNR's corporate counsel.

Mr ASTILL: Yes, that is correct.

Ms SYLVIA HALE: Did you at any stage provide the department or any Minister or servant of the department with any advice concerning the judgments that had been handed down in the Land and Environment Court and then the Court of Appeal in relation to the Orange Grove decisions?

Mr ASTILL: Yes.

Ms SYLVIA HALE: What was the substance of those reports?

Mr ASTILL: It was a summary of what the judge had held in the Land and Environment Court and subsequently what the Court of Appeal held there.

Ms SYLVIA HALE: In the course of that report did you express any opinion as to the nature of the decisions that were made, whether they dealt with in the merits of the rezoning or was it just the more narrow technical definition of what was approvable?

Mr ASTILL: Madam Chair, this question goes to a document or documents which I have prepared for the purpose of the department over which privilege has been claimed. In your previous openings to the Committee where I have attended you have indicated that that privilege had not yet been the subject of any independent panel to overturn the privilege. So I would seek not to have to answer questions over privileged documents.

CHAIR: Yes, you are right.

Ms SYLVIA HALE: We could hear it in camera.

The Hon. AMANDA FAZIO: But you could still claimed privilege—

The Hon. JOHN RYAN: No, you cannot then.

The Hon. AMANDA FAZIO: Why?

The Hon. JOHN RYAN: Because it is in camera. Privilege is not a reason not to answer questions; privilege is a reason for keeping things confidential. It is not for not answering questions.

CHAIR: Mr Astill, you do not have to answer the question. The Committee can deliberate separately on whether or not to pursue the matter, but at this point we will not.

Ms SYLVIA HALE: Mr Astill, are you aware of any other occasions on which rezonings of a retrospective nature have occurred, where things that were once held to be illegitimate have subsequently been made legitimate or regularised by a rezoning?

Mr ASTILL: Am I aware that rezoning has ever taken place of an existing use?

Ms SYLVIA HALE: Yes.

Mr ASTILL: Yes, I am aware of that.

Ms SYLVIA HALE: On many occasions?

Mr ASTILL: I do not know.

Ms SYLVIA HALE: Could you nominate several of those, one or two, give us an example that may be equivalent to what we have been talking about?

The Hon. AMANDA FAZIO: Do your own research.

Mr ASTILL: Equivalent to this, no.

Ms SYLVIA HALE: I suggest that we subsequently go into camera.

The Hon. AMANDA FAZIO: Why?

The Hon. JAN BURNSWOODS: Why?

Ms SYLVIA HALE: I cannot ask any further questions. If the matter is subject to privilege it is obviously impossible to ask any question—

The Hon. JAN BURNSWOODS: What has going into camera got to do with that?

The Hon. PETER PRIMROSE: This does not affect privilege. These people are invitees.

The Hon. JOHN RYAN: I understand that privilege is not a reason for not answering a question.

The Hon. PETER PRIMROSE: Yes, it is.

The Hon. JOHN RYAN: It is a reason for not answering questions in open session.

The Hon. AMANDA FAZIO: You are not the Chair of this Committee; you just babble on—

Ms SYLVIA HALE: I am sorry. I was trying to seek advice from the Chair.

CHAIR: Order! The Committee has resolved to follow the normal arbitration process in relation to privileged documents. So if we want to proceed along that line we will do that as per a deliberative meeting rather than deal with it here. Are there any further questions?

The Hon. PETER PRIMROSE: So, Madam Chair, legal professional privilege can be waived by the Committee provided it is in camera?

The Hon. JOHN RYAN: Yes, I thought that was established with Mr D'Agostino, wasn't it?

The Hon. AMANDA FAZIO: No, he would not answer anything because he was claiming privilege. Get that smirk off your face.

The Hon. PETER PRIMROSE: It is a great precedent.

Ms SYLVIA HALE: Perhaps we can deliberate to determine this.

CHAIR: Yes, we will talk about that at a deliberative meeting.

The Hon. PETER PRIMROSE: No, Madam Chair, before we go into camera I think it is appropriate that we advise the public. The public has a right to know.

The Hon. JOHN RYAN: I do not think there is any need to go into camera. We are not going into camera; we are going to use the other procedure.

The Hon. PETER PRIMROSE: I thought we just had a proposal that we go into camera.

Ms SYLVIA HALE: No, I was asking about the procedure whereby that happens. The point I was making was that it was impossible to ask any more questions if the matter we were talking about was privileged.

CHAIR: The documents are in the hands of the Committee so members of the Committee have viewed them.

(The witnesses withdrew)

(The Committee adjourned at 5.54 p.m.)