

REPORT OF PROCEEDINGS BEFORE

GENERAL PURPOSE STANDING COMMITTEE NO. 4

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

At Liverpool on Monday 16 August 2004

The Committee met at 9.30 a.m.

PRESENT

The Hon. Jennifer Gardiner (Chair)

The Hon. Jan Burnswoods

The Hon. Peter Primrose

The Hon. Kayee Griffin

The Hon. John Ryan

Ms Sylvia Hale

The Hon. David Oldfield

CHAIR: I declare open the second public hearing of General Purpose Standing Committee No. 4's inquiry into the approval process for the designer outlets centre on Orange Grove Road, Liverpool. The Committee is due to report on 1 September. Before we commence proceedings I would like to make some comments about aspects of the Committee's inquiry. I apologise for the length of this statement, but to assist the public and witnesses copies will be made available at the table near the door.

It is possible that some of the issues raised by witnesses during the hearings may be the subject of legal proceedings elsewhere, such as the Land and Environment Court, the New South Wales Court of Appeal and the Independent Commission Against Corruption. The sub judice convention has been the subject of a number of rulings in the House. Put simply, the convention requires the Chair to judge whether proceedings of the Committee are likely to prejudice a matter before the courts or the integrity of the judicial process. As a parliamentary convention, the onus falls on the Chair to judge whether any matter is sub judice. As former Legislative Council President Johnson ruled, "...the Chair may decide to intervene on its own volition or may be called upon to decide on a point of order brought to its attention. If the matter is before a court, in order to make a decision whether the public interest outweighs the possible prejudice to the case, the Chair must be apprised of the specific matters before the court and the Chair must hear enough ..." to decide whether the matter may proceed.

Therefore, if a witness or a member objects to a question on the grounds of sub judice, I propose to hear argument as to why answering the question may lead to a substantial interference with the judicial process, and make a ruling on the basis of the arguments presented. I emphasise that a parliamentary committee, like the House, is not constrained from discussing a matter that is being considered by another in inquiry or court, including the Independent Commission Against Corruption, except by its own conventions. I note that much of the subject matter of this inquiry has been debated widely in the media, and I would not support a position where a parliamentary committee was unable to hear evidence on a matter that has been freely discussed elsewhere. I also note that in relation to matters before a court where no jury is involved, I have some difficulty with the proposition that a judge would be influenced by the utterances of a committee proceeding.

As with other inquiries, the Committee will consider any requests by witnesses or Committee members that evidence be heard in camera. If a witness does give evidence in camera following a resolution of the Committee, however, they need to be aware that following the giving of evidence the Committee may decide to publish some or all of the in-camera evidence. Likewise, the House may, at a future date, decide to publish part or all of the evidence even if the Committee has not done so.

Committee hearings are not intended to provide a forum for people to make adverse reflections about others. The protection afforded to Committee witnesses under parliamentary privilege should not be abused during these hearings, and I remind witnesses to ensure that the matters raised are directly relevant to the terms of reference. If a witness makes serious allegations which the Committee believes reflect adversely upon a specific person, as a matter of procedural fairness the Committee would be obliged to afford that person the opportunity to respond to the criticisms, either in writing or in person. This process may divert the Committee from its deliberations. In this particular case, where the reporting date is less than two weeks away, it may impede the Committee's ability to meet that deadline.

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.

We are aware that people hold strong and divergent views regarding the approval process for the designer outlets centre. I wish to emphasise that although this is a public hearing, it is not an open forum for comment from the floor. The role of a parliamentary committee is to provide citizens with an opportunity to participate in the parliamentary process. While the Committee welcomes members of the public here today, the primary purpose of this hearing is to give individual witnesses an opportunity to give their evidence on oath before the Committee. Only questions from the Committee and the evidence of the witnesses are recorded on the transcript. Uninvited interruptions are not recorded, and may make it more difficult for witnesses to fully express their views.

The Committee previously resolved to authorise the media to broadcast sound and video excerpts of its public proceedings. Copies of the broadcasting guidelines are available from the table by the door. In reporting

Committee proceedings, the media must take responsibility for what they publish, including any interpretation placed on evidence before the Committee. In accordance with these guidelines, while a member of the Committee and witnesses may be filmed or recorded, people in the public gallery should not be the primary focus of footage or photographs.

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

GEORGE PACIULLO, former Mayor of Liverpool, 19A De Meyrick Avenue, Casula, sworn and examined:

CHAIR: If you should consider at any stage during your evidence that certain evidence or documents you may wish to present should be heard or seen in private by the Committee, the Committee will consider your request. However, I point out that the Committee or the Legislative Council itself may subsequently publish such evidence if it is in the public interest to do so. Do you wish to make an opening statement?

Mr PACIULLO: Yes. Upon arriving back from holidays interstate in mid-July, I was contacted by a number of local residents who are well versed in Liverpool's civic affairs advising me that the Premier, Bob Carr, was blaming the Orange Grove Road designer outlets centre fiasco/controversy on me and other former councillors of Liverpool City Council. I was further informed that the terminology he was using was that "the debacle was the fault of the disgraced and sacked Liverpool council". I wish to point out that at that time I was unaware that the controversy even existed.

Every day after my return I was urged to defend my own good name and those of my fellow councillors as they were aware that the Premier's claims were false. However, as has been my lifelong practice, I was not prepared to enter the public debate until I was in full possession of the facts and had satisfied myself that the claims being made about the Premier were indeed justified.

The evidence I needed before I felt I could go public came on 21 July, when I saw and heard the Premier on the evening television news state that "the Orange Grove Road debacle was the blame of the disgraced and sacked Liverpool council". The *Daily Telegraph* reported accordingly in its next day's publication. I have since taken the opportunity in the media to inform the public of the truth.

The facts are as follows. The sacked and disgraced—according to the Premier—members of the Liverpool council are myself and the 10 other former councillors. We did not ever have the Orange Grove Road designer outlets centre development application before us for consideration, debate or determination, or in any way influence its approval. It was dealt with by council's planning officers under delegated authority—a fact confirmed, I understand, by evidence given to this inquiry last Friday. None of these officers is either disgraced or sacked by the Carr Government.

As is common practice in local government, Liverpool council officers are given authority to deal with development applications in certain circumstances. One of those circumstances is that there are no more than two objections received from the public following the advertising and notification of the development application. No one objection was received. Further, the planning officers had before them, before giving approval, three economic impact studies on Liverpool's CBD, two of which were independent of the applicant and all of which came to the same conclusion: the effect would be minimal if the application was approved.

Additionally, it has recently come to my notice that the Liverpool Chamber of Commerce, a body that protects and promotes Liverpool's CBD, is supporting the case for the designer outlets centre to remain open. I imagine—although I have no evidence or proof—that they are aware that a very large proportion of the centre's shoppers come from outside the Liverpool area and are therefore potential visitors to the Liverpool area, especially its CBD.

Returning to the Premier's untruthfulness in this matter, in more recent utterances last week on radio Mr Carr danced around his original "disgraced and sacked" line to "the decision to approve was made by a council on its way to being dismissed". Whilst this is not quite as personally offensive to me and the other former councillors, it is still a case of our Premier not being truthful to the people of New South Wales. In the same interview, when asked to explain why his own government-appointed administrator of Liverpool City Council and a former head of NSW Planning had supported a rezoning of the designer outlets site, his response was, "She was just shuffling paper."

I am informed that when the administrator, Gabrielle Kibble, gave evidence last Friday she made it clear that she was in support of the rezoning, thereby allowing the centre to remain open. Again the Premier is not telling the truth.

I wish to add that during a number of years as a member of the New South Wales Parliament, and especially as a senior Minister in the Wran and Unsworth governments, I held a string of responsibilities which

had the core function of protecting the public against killers on our roads, business sharks, and the criminal elements of our State. Those roles were the Chairman of Staysafe, the Minister for Consumer Affairs, and the Minister for Police.

I never hesitated to publicly name those who transgressed in order to alert and inform the community, but always made absolutely sure that those I so named was based on irrefutable evidence and advice. I never erred and had I done so it would have been an unforgivable injustice to those who I would have wronged, as well as completely undermining my own credibility and authority. As I have clearly demonstrated, the facts as I have presented unquestionably show that the Premier of New South Wales has lied to the people of this State about where the blame lay for the approval by Liverpool council of the development application for the Orange Grove Road designer outlets centre. I submit he has therefore lost the right to expect to be believed when he makes any other claims or utterances on this issue.

The Hon. JOHN RYAN: I do not know whether your attention has been drawn to the evidence of the administrator, Gabrielle Kibble, but I guess one thing is that she does not have the advantage of having been an elected person representing Liverpool. Given that you are the closest or the most proximate person who has held that position, can you give us an impression as to your views of the designer outlet, quite apart from the process? Do you support the continuation of the designer outlet? I mean this is somewhat hypothetical but if you were the mayor of Liverpool today, had you been able to contest then and—I suspect from my local knowledge—win the role of becoming the mayor, would you be supporting the designer outlets, and what would you be doing and saying about them?

Mr PACIULLO: One of the reasons I felt the Premier's remarks were so improper and unfair in blackening the name of Liverpool City Council in this matter is that in the council we pioneered the independent hearing assessment panel scheme, which allows experts in various fields to make recommendations to the council on contested development applications. So I just want to preface the fact that I have said continuously that in these very difficult matters I would be guided by them. They would have had before them the three economic impact statements I made reference to before, which indicated that the effect on the CBD would be minimal. Obviously, that would have influenced me.

I would have taken into consideration obviously in this particular case the unfortunate position so many people, the ordinary people of this community, and I guess other communities, who work at the centre and of the intolerable situation and tragic situation those who have invested their life savings—and I understand mortgaged their homes in some cases—to set up small businesses. That would have been a major consideration to me and I would have been heartless and cold to the extreme had I not accepted the advice of every planner and, I would have expected, the independent hearing assessment panel. I would have been very much in support, and I am very much in support, of those unfortunate people who have been caught up in this very unhappy situation.

The Hon. JOHN RYAN: Do you think that the establishment of the factory outlet is a good thing for Liverpool?

Mr PACIULLO: I am advised reliably that the outlets have as their core business people from outside the area. That must be good for Liverpool. As I have indicated, the chamber of commerce, which one would have expected to be concerned about an outlet on the fringes of Liverpool CBD, would have been opposed to it but the reverse is the case and it must be a good thing when you get all that kind of advice from experts and community bodies and I am sure the people of Liverpool who would want the centre to stay. It is a good thing for Liverpool, I have not the slightest doubt.

The Hon. JOHN RYAN: Do you still have contact with store keepers and the chamber of commerce and so on, people who I guess might generally represent Liverpool central business district? Have you been able to collect any impression from them as to what they think about the factory outlet? Are they violently opposed to it or do they support it?

Mr PACIULLO: I imagine there would be some division of opinion but the spokesperson for them is the chamber of commerce. I have already indicated that my understanding is that they will be supporting the application to rezone so that the centre can remain open.

The Hon. JOHN RYAN: Were you in charge of the council when the application from Westfield was considered for an expansion of the existing Westfield shopping centre?

Mr PACIULLO: Yes, I was the mayor of the city.

The Hon. JOHN RYAN: Do you recall anybody raising objection to it? If so, what was the nature of the objection?

Mr PACIULLO: I do not have any recollection of any objection. I am not saying that there was not but I have no recollection of objections.

The Hon. JOHN RYAN: Was there any discussion from people who trade from Liverpool town centre as concern as to what impact further expansion of Westfield would have on the strip shopping centre?

Mr PACIULLO: Yes. There is a fairly strong feeling amongst some of the traders that Westfield has diminished its business opportunities and economic viability in the CBD. I do not happen to concur with that view. I think every core centre, every central business district, should do its utmost to provide the very best for its community and let competition play its role in ensuring that people have a choice.

The Hon. JOHN RYAN: Nevertheless it would be fair to say that some of the arguments which Westfield is now ventilating about the factory outlets centre have been ventilated against them and considered by the council previously, have they not?

Mr PACIULLO: I imagine so.

The Hon. JOHN RYAN: Additionally, was it ever necessary to rezone land? During the history of the Westfield site was it ever necessary to rezone land so that Westfield could grow and expand its facilities?

Mr PACIULLO: Yes.

The Hon. JOHN RYAN: Can you explain any circumstances in which land was rezoned?

Mr PACIULLO: On its present site existed part of the Catholic school that still exists there these days. It is not unusual to rezone land in a city like Liverpool, which has such enormous growth and which needs to rezone its areas so that people can be accommodated for their shopping and other needs.

The Hon. JOHN RYAN: Did Westfield, when it submitted its application to expand, raise any concern about the factory outlets centre, in any way compromising its significant expansion of its facility which is under way at the moment?

Mr PACIULLO: One of the points I have made to the media, and therefore to the public, since I became aware of this controversy was that during the normal consideration stage of this application—that is, the Orange Grove Road application—not a single solitary objection was raised by anybody, and I have not the slightest doubt that that was an influence on the planners and obviously had there been any major objection it would have come to council.

Ms SYLVIA HALE: It is interesting that on this occasion there were no objections received from the public, yet back in 1991 when the first application to rezone the former caravan site had come to council that were some 500 objections. Were you on the council at that stage?

Mr PACIULLO: No, I was not.

Ms SYLVIA HALE: Presumably those objections were from people who were being—why do you think there is such a disparity between 500 on the first occasion and no objections on this occasion?

Mr PACIULLO: I did not know about the 500 objections on the first occasion. There may have been forces at work which are not at work today, but I stress that I can only give evidence and provide information on the current situation. As I have indicated, I was not the mayor at the time.

Ms SYLVIA HALE: Given that there were no objections, presumably the usual notification and advertising processes were followed?

Mr PACIULLO: Absolutely. I ascertained that before I made any public comment.

Ms SYLVIA HALE: And would you have found it strange that a company such as Westfield should at that stage not have lodged any objections?

Mr PACIULLO: I found it strange in the light of other events or following events that it objected to the application in terms of its legality and took it to the courts, obviously successfully later, but did not object at the stage when it could have objected and could have had its objections considered by the council.

Ms SYLVIA HALE: You said that the development application was assessed by an independent hearing assessment panel.

Mr PACIULLO: Could I correct you? I did not say that; I said it would have been assessed by the independent hearing assessment panel had it come to council.

Ms SYLVIA HALE: Right, but because there was no need for it to go to that panel. Are the officers who did make the assessment still employees of council?

Mr PACIULLO: I cannot answer that question in terms of the totality of the answer. I do know that one of the officers is no longer an employee of the council, the then chief planning officer, Mr Turrisi.

Ms SYLVIA HALE: Do you know who has subsequently employed him? Do you know who now employs him?

Mr PACIULLO: He is self-employed; he has set up a consultancy, I understand.

Ms SYLVIA HALE: When you were the mayor and the council was dismissed, from recollection I think it was to be a six-year gap between the dismissal of the council and the next local government elections.

Mr PACIULLO: Four years and a bit, I understand—4¼ years or so.

Ms SYLVIA HALE: And the Government, in appointing Ms Kibble, obviously appointed someone they thought was extraordinarily well qualified to sort out the difficulties that were confronting the council.

Mr PACIULLO: Absolutely.

Ms SYLVIA HALE: So you believe that any suggestion that it would be unlikely that a person as well qualified as Ms Kibble would, on an important application like this, merely shuffle papers?

Mr PACIULLO: I thought I made that fairly clear in my opening remarks. Gabrielle Kibble is a highly qualified former chief planner of New South Wales in the New South Wales department of planning. She has enormous experience in other fields and her appointment, even though it was obviously, as every other council would have been, extremely disappointed with the Government's decision to sack the council, especially under the circumstances which are not yet known to the public. But nevertheless I regarded her appointment as a good thing for Liverpool because of her experience and because I know, as the other councillors do know, of the tremendous challenges this city has in providing for the massive growth population.

Ms SYLVIA HALE: Are you aware of newspaper reports that Ms Kibble considers that she only needs to attend to the details of council administration on one day a week?

Mr PACIULLO: I thought it was two days a week, from what I have heard. Yes, I have read that but as the former mayor I gather that her attitude would be different to mine. She is an administrator; I was the mayor, and the mayor has, just for starters, the need in this area to dedicate just one day a week to meeting people who want to see him. It would be impossible to set appointments because of the volume of the number of people who want to see you so just one day a week was just meeting people. The rest of the week was trying to resolve not

only their issues but all the other issues which were swimming around, as I said, in an area which has such tremendous population growth.

Ms SYLVIA HALE: So you think it would be possible for an administrator to spend just two days a week and be on top of what was happening in the council, given the complexity of events surrounding the Oasis development?

Mr PACIULLO: I do not think it is possible to have total knowledge of all the different matters that come before a mayor with two days a week. I mean if it was, I would not have been spending seven days a week on the job. But as an administrator what I am suggesting is that it may be a different role she has to administer I suppose more than anything else but in doing so she may have a completely different attitude to what I had and a person who under normal circumstances might seek re-election and want to ensure that the public felt he was doing his job.

The Hon. PETER PRIMROSE: In the hearings of the Daly inquiry into council's maladministration of the Oasis project, were you questioned about the closeness of your association with Mr Frank Mosca?

Mr PACIULLO: No, I do not think so. There may have been a question if I knew him but there was no great questioning.

The Hon. PETER PRIMROSE: Maybe if I can just remind you that on 20 January 2004 legal counsel for the Daly inquiry asked you about "applications that Mr Mosca put up to council went through straight away".

Mr PACIULLO: What was the question to me?

The Hon. PETER PRIMROSE: I asked you: At the hearings of the Daly inquiry were you questioned about the closeness of your relationship with Mr Frank Mosca?

Mr PACIULLO: Was it the closeness of my relationship? Could you repeat the actual question I was asked. Might I add, Mr Primrose, I had two full days of questions and statements and I cannot remember every single one.

The Hon. PETER PRIMROSE: So you do not recall that?

Mr PACIULLO: No, I have asked you to just repeat the question.

The Hon. PETER PRIMROSE: I have asked you a question. Do you recall being asked about the closeness of your relationship with Mr Frank Mosca?

Mr PACIULLO: I answered your question initially. I said I thought there was some reference to it. I cannot remember exactly what it was.

The Hon. PETER PRIMROSE: The Daly inquiry thought there was a pattern of "preferential treatment" of Mr Mosca by the council, isn't that so?

Mr PACIULLO: I am not aware of that. There was certainly none from me and in answering your question so that this inquiry can be absolutely clear, I made it abundantly clear time and time again that we had a process in place to deal with development applications and I was guided by the recommendations of the independent hearing and assessment panel, who were quite independent of any influence whatsoever, and I made it quite clear publicly, at the council and privately that I would follow their recommendations, and I did.

The Hon. PETER PRIMROSE: Maybe, Mr Paciullo, your memory could extend to this then. Can you explain to the Committee the extent of your relationship or friendship with Mr Mosca?

Mr PACIULLO: Yes I can. I know Mr Mosca as a fellow party member. I know that he actively participates at the Austral branch. I have met him there once or twice. I have had lunch with him, which was an accidental one because I was in the area, once over the past 10 years and it was a sandwich lunch. I had not spoken to Mr Mosca for a number of years, or more recently a number of years up until the time that this matter

became public. So my relationship with him was, yes, I knew he was an active person, I often saw him, but I have had very, very little close association with him at all, and no more than any other party member.

The Hon. PETER PRIMROSE: Do you know Mr Gazal?

Mr PACIULLO: Yes, I know Mr Gazal. I first would have met Mr Gazal—not that I have any vivid recollection of it but I have been reminded of it—about 10 years ago at a function. It was probably the first of my fund-raising functions, which are normally dinners. He was present. I had not spoken to him then again until this controversy became the issue that it has been. My only other association in any direct way with Mr Gazal was when he made application for a cinema complex on, not the very same site but on his old Viscount site at the Megacentra, and it was an application which I opposed.

The Hon. KAYEE GRIFFIN: We heard in evidence last Friday from the Shopping Centres Council of Australia that there are only 13 direct factory outlets across the country. Given the nature of the development and the fact that it is somewhat unusual in terms of most local government areas, why would council make the decision to just have this application dealt with by delegated authority?

Mr PACIULLO: Well, the council's policy is very clear and it is very important that every one is treated exactly the same. As I said we, in Liverpool, as is common practice in local government, give delegated authority to the officers to determine development applications under certain conditions. One of those conditions is that the application, in the view of the officers, is in accordance with its correct zoning or is permissible in their view, and the other one is that there are no more than two objections which cannot be resolved, otherwise it comes to council.

If we did not have that process in place the council meetings, which occur twice a month, would be dealing with nothing else virtually except development applications and we would have everyone in the chamber fighting over or trying to win the views or the votes in the council. We deal with it in a much more civilised and a much more hands-off way by having the approach, which, as I said, is common practice and very good practice. Can I add, that the method by which we deal with development applications has been recognised Australiawide when we were given an award for the manner in which we deal with DAs.

The Hon. KAYEE GRIFFIN: Was it good practice of the council that when the application was dealt with, it was not advertised and that it took five months for this application to be advertised?

Mr PACIULLO: I am not aware of the details. As I said, it does not come to our notice unless there are disputes which we need to resolve and I am not aware of those details at all.

The Hon. KAYEE GRIFFIN: Surely, Mr Paciullo, you and your fellow councillors would have been aware that this application had been lodged with council. Surely there would have been comments by perhaps concerned people in the Liverpool CBD about the fact that this application might have a substantial effect on the shopkeepers and the shopping centre itself?

Mr PACIULLO: There were no such comments made to me.

The Hon. KAYEE GRIFFIN: Do you know why the application was not advertised and why, given that the planners who dealt with it, Mr Hunt, advised Mr Mosca that it really did not fit at that point in time either as a warehouse or bulky goods; there was an issue there and it needed to be advertised, it was not advertised?

Mr PACIULLO: My advice is it was advertised. I am not sure at what stage you are talking about and I have given that within my statement. I am sworn to tell the truth. I did not make that statement without checking with the officers before I did make the statement and my advice—again I repeat—was that it was advertised.

The Hon. KAYEE GRIFFIN: Given that you were the mayor of Liverpool City Council at the time, did you know and, if you did know, did you ask questions as to why, when it was finally advertised, the approval was given the day after the advertising period closed?

Mr PACIULLO: No, I did not. You obviously are not aware of the many, many other responsibilities and time-consuming duties of the mayor of Liverpool or any other growth area like ours. I do not have the time

to delve into the details of every development application, nor would I have an interest until such time as there were some concerns expressed to me. I repeat: None were expressed.

The Hon. KAYEE GRIFFIN: Were not concerns expressed to you about the fact that there would be a case lodged in the Land and Environment Court in relation to the approval that council had given?

Mr PACIULLO: No, I think that might have occurred—or it may not have—after the dismissal of the council but they were not expressed to me anyway.

The Hon. KAYEE GRIFFIN: So no-one expressed anything to you about the fact that there was a matter before the Land and Environment Court that impacted upon the approval that council had given?

Mr PACIULLO: No.

The Hon. KAYEE GRIFFIN: Does it not concern you that as the mayor, no-one advise you of some of the impending problems and legal processes?

Mr PACIULLO: Look, the impression may be given that the events in the courts in this matter were, sort of, one-off. There are challenges in the courts about these planning matters on a regular basis. The Land and Environment Court is dealing with them of all the time. This one has become controversial for other reasons, which this Committee very well knows about. It is not as if it only happens once every 10 years. It is happening regularly.

The Hon. KAYEE GRIFFIN: But this will have a substantial impact on people who, in good faith, were operating at Orange Grove and also the fact there was a court case happening at the time questioning council's original approval. Surely as mayor some of this information, these concerns and obviously legal opinions about the processes of council and the processes of the case before the Land and Environment Court would have come to you.

Mr PACIULLO: I can only answer the same way as I have answered before. It had not been brought to my attention. No-one expressed any concern to me.

The Hon. JOHN RYAN: When was the council dismissed?

Mr PACIULLO: The council was dismissed in March of this year.

The Hon. JOHN RYAN: 2004?

Mr PACIULLO: Yes.

The Hon. JOHN RYAN: The matter was certainly in the court before then, around Christmas?

Mr PACIULLO: If I think about it, was the court case in November last year?

CHAIR: That is right.

The Hon. JOHN RYAN: What sort of local member do you think Craig Knowles is?

Mr PACIULLO: Local member?

The Hon. JOHN RYAN: Yes?

Mr PACIULLO: He is a very high-profile local member and I think he attends to his duties very well.

The Hon. JOHN RYAN: Do you think he has properly represented the people he represents on this matter?

Mr PACIULLO: Could you repeat the question?

The Hon. JOHN RYAN: Do you think he has represented the people whom he represents in Parliament properly on this matter?

Mr PACIULLO: I cannot answer that because I am not privy to the events, as I said, in this matter until such time as it was brought to my notice very recently.

The Hon. JOHN RYAN: Do you think that he has expressed adequate concern about the people who are likely to lose jobs in south-western Sydney as a result of the possible closure of the factory outlets?

Mr PACIULLO: I do not think I can answer that question again because I am not privy to a lot of that. My main concern has been to set the record straight as far as the propriety of this council is concerned and the Premier's very, very unfair remarks, and remarks which were untrue.

The Hon. JOHN RYAN: Are you aware of the unemployment rate in Liverpool?

Mr PACIULLO: I do not actually have the numbers now. I did know them but I can say with surety that our unemployment rate is amongst the highest in the State and probably among the highest in the country, and I have read articles or reports to that effect over the years I have been mayor. I do not think much has improved.

The Hon. JOHN RYAN: Do you think the provision of an economic activity that generates in the order of 400 jobs that are semi-skilled, particularly for women, is a matter of advantage to the social and economic situation of Liverpool?

Mr PACIULLO: I think if the authorities do not grab every single opportunity to create employment or to maintain employment in this area they do not deserve to be in government.

The Hon. JOHN RYAN: One of the principal objections of the Department of Infrastructure Planning and Natural Resources to the factory outlets is that it does not conform, in their view, with the requirements of SEPP 66 and, in particular, one of its weaknesses, they believe, is that the factory outlet is not adequately linked by public transport. Is that a matter of concern to you?

Mr PACIULLO: No, it is not a matter of concern to me. I should add that one of the reasons why I cannot believe Mr Carr will not give the necessary orders to allow this centre to remain open—and one of the reasons he gives, incidentally, is that the Government has a city centre's policy which it wants to maintain and that some \$18 million—and I am not sure where that figure came from; I am not saying it is not authoritative—is being drained out of the Liverpool's CBD. I would invite Mr Carr or anyone else if they think money is being drained out of the Liverpool's CBD to go looking for a car parking spot within our CBD at any time, especially during peak time. If you can get one without having to really shop around to look for that car parking spot, you should take a ticket in the lottery.

Liverpool's CBD is one big thriving centre and that is not surprising, again because of our population growth. It is overtaxed in terms of its ability to service our community. Liverpool desperately needs more facilities of all kinds for its community and that is why I cannot understand why Mr Carr is so insistent on maintaining what he claims to be the integrity of the planning system in not allowing the centre to remain open. I just cannot understand it.

The Hon. JOHN RYAN: Do you think that there is a practical possibility of locating something the size of the factory outlets in the Liverpool central business district?

Mr PACIULLO: Well, I would not think so. As I have just mentioned, the central business district is taxed to the full at the present time.

The Hon. JOHN RYAN: Are you aware of the relationship between Frank Mosca and Craig Knowles?

Mr PACIULLO: I know them as friends, as people who know each other and, obviously, being in the same party you would expect that to be the case—not always the case, but you would expect it to be the case.

The Hon. DAVID OLDFIELD: Mr Paciullo, my apologies for missing your opening statement. Incidentally, are you aware that the Premier was on the radio again, as recently as this morning, having a tremendous go at your council and using words such as "a slippery slide to dismissal and disgrace"?

Mr PACIULLO: No.

The Hon. DAVID OLDFIELD: He spent some time this morning on radio 702.

Mr PACIULLO: No, I was not aware of that. I must add, if I can, that I am not surprised. As I have indicated, I have watched this Premier operate as a premier. I have a natural interest in Premiers of New South Wales because I have been working with them for a long number of years. Each and every one of us has a mode in which we conduct ourselves, what we are comfortable with, and how we try to win the day. I have said publicly that I notice this Premier—and I have this from direct experience—that when he wants to get his way he takes the path of demonising and discrediting. When more facts are known about the issue, which I intend to make public, and about the role of the New South Wales Government in the Oasis matter, I think people might begin to realise just how unfairly we have been treated in this city and how unfairly the council has been treated in trying its very best to provide for the masses of new citizens of our area.

The Hon. PETER PRIMROSE: Do you have anything to add to the Daly inquiry?

Mr PACIULLO: I answered all the questions of the Daly inquiry, and I made a submission to the Daly inquiry. You know the outcome: I could do no more than that. Mr Daly was appointed by the Government, was he not!

The Hon. DAVID OLDFIELD: Certainly you might like to get a copy of the transcript of this morning's interview on radio station 702, because the Premier was extremely scathing in a continuously rehearsed series of responses regarding your council and the Oasis matter and the loss of \$20 million of ratepayers money, et cetera. He was exceedingly scathing I must say.

Mr PACIULLO: The Premier has a vested interest in discrediting my former council and myself, because of the evidence I will give to this inquiry, which I did not particularly want to become public. I felt I had to, to defend, as I have said in your absence, my own good name and that of my fellow councillors.

The Hon. DAVID OLDFIELD: Do you have a particular view as to why the Premier might be misleading everybody in regard to this? Particularly, again this morning, he was doing a carry-on about all the potential loss of economic aspects and jobs within the Liverpool CBD. You did not get a single concern raised during this application from shop owners in the Liverpool CBD?

Mr PACIULLO: No, I answered that question earlier.

The Hon. DAVID OLDFIELD: He was on about that again this morning. Do you have any particular view as to what he is covering up?

Mr PACIULLO: Well, anyone who does not tell the truth is covering up something. All of us, if we lie or do not tell the truth, we have a reason for doing so. You do not tell lies for the sake of telling lies. Normally, no-one would tell lies. You have a reason for doing so. I am suggesting that the reason that the Premier is not telling the truth is that he wants to distract attention from his own decisions to those of the council by discrediting this council and myself, even though I understand he has not mentioned me by name.

The Hon. DAVID OLDFIELD: He did this morning.

Mr PACIULLO: Oh, he did. At least he has had the forthrightness to actually mention me my name. I can say to this inquiry and the public of New South Wales that I have had the most probing two years of my life by an independent body, the ICAC, and I have no complaint about them at all, into my affairs as a public official. I have said all this before. Unless any of you have been through that process you would not know the extent to which that body, quite justly, seeks the truth. Not only do they seek statements from you, but your words, your statements, are cross-examined and tested by others. That did not occur in the Daly inquiry at all. He had a lot of statements from which he chose to make some findings.

Can I make it clear that I at least can say, and even Mr Daly said, that I and my council were not corrupt; not that that was part of its terms of reference, but even he came to that conclusion. I and my fellow councillors can say that whatever our differences of opinion might have been about any subject, including the Oasis, we can all say that we served our community honestly and for the purpose of serving them. At least I can say, as I have indicated before, that I have been proven incorruptible. At least I can say that. We will test whether others, who make claims about me, also find themselves able to say that in times to come.

The Hon. DAVID OLDFIELD: Given your considerable experience in State Government, particularly as a Minister, and given that Gabrielle Kibble, with 10 years as the Director-General of the Department of Planning, considered that the LEP amendment was important economically and socially to Liverpool and should go ahead, given those recommendations to the department do you find it unusual that the Minister rejected all of that advice—the advice of the three senior planners within the department in regards to putting the report forward and having the Government make the change through the Minister?

Mr PACIULLO: Extremely unusual. If I were sitting in that same seat and I had those recommendations, I would not have any hesitation, given the consideration of all the matters which have been raised before and to which I have testified. I would not give the slightest consideration to not signing the document.

The Hon. DAVID OLDFIELD: Do I gather that you, Mr Paciullo, take a dim view of the job that Bob Carr has been doing as Premier?

Mr PACIULLO: No, but I am not making any assessment of his leadership overall, but I take the dimmest view imaginable about our Premier's actions, statements, falsehoods, lies, that he has perpetrated in the public about this matter.

The Hon. KAYEE GRIFFIN: If all the issues with Orange Grove were not serious enough to have been brought to your notice as Mayor, what would it have needed for a problem with a development application to be brought to your attention? If all the problems with Orange Grove had not been brought to your notice, what else would have had to have happened for it to have been brought to your notice as Mayor?

Mr PACIULLO: There would have to have been more than two objections for it to formally come before council. Are you referring to that?

The Hon. KAYEE GRIFFIN: No, I am referring to the whole issue of Orange Grove; the development application, advertising, the fact that there was a case in the Land and Environment Court objecting to the proposal that was approved by council. What else would it have taken for all that to have been brought to your notice?

Mr PACIULLO: Well, it was not brought to my notice. I cannot emphasise that strongly enough: It was not brought to my notice. As I indicated in my opening remarks, I did not even know it was a controversy until I came back from holidays in mid-July. What else can I say to you?

The Hon. KAYEE GRIFFIN: You were still the Mayor until early 2004 when all of this was happening. Why did you not know about it?

Mr PACIULLO: Because it was not brought to my notice. I cannot be concerned about matters I have no knowledge of it. Nor would you.

The Hon. KAYEE GRIFFIN: You were the Mayor.

Mr PACIULLO: I might have been the Mayor, but the Mayor does not know every single event that is happening in an area, just as the Premier does not know every single event that is happening in New South Wales.

(The witness withdrew)

COLIN JAMES HARRINGTON, Former Independent Councillor, Liverpool City Council, 5 Cubitt Drive Denham Court, sworn and examined:

CHAIR: In what capacity do you appear before the Committee today?

Mr HARRINGTON: What is your occupation?

Mr HARRINGTON: I am now retired.

CHAIR: In what capacity do you appear before the Committee today?

Mr HARRINGTON: As an individual, but as a former councillor and Mayor of Liverpool.

CHAIR: If you should consider at any stage during your evidence that certain evidence or documents you may wish to present should be heard or seen in private by the Committee, the Committee will consider your request. However, the Committee or the Legislative Council may subsequently publish the evidence if they decide it is in the public interest to do so. Do you wish to make an opening statement?

Mr HARRINGTON: Yes. I do not have a prepared written statement, but I would like to say that I commend the former speaker, Mr Paciullo, on his criticisms of Premier Carr relating to his opinions of what has happened at Orange Grove. However, on other matters raised by Mr Paciullo I have different views. As far as the Orange Grove discount centre, I would like to say publicly that if it had come before the council I would have supported the application for the social and economic benefits that are very clearly evident with that application.

CHAIR: Would you like to expand on what you saw as the economic benefits for that part of Sydney?

Mr HARRINGTON: Yes, I think the most important one is the extra money coming into Liverpool from outside Liverpool, from a very large catchment area. People go to retail sites across the City of Sydney, they might go once a week or once a fortnight. That is extra people being attracted to the City of Liverpool that would not have come to Liverpool other than for the retail outlet centre being in operation.

CHAIR: After all that has been said and done on this considerable controversy, you still support the designer outlet centre going ahead?

Mr HARRINGTON: Most definitely, yes.

The Hon. JOHN RYAN: Do you know Mr Frank Mosca?

Mr HARRINGTON: Yes.

The Hon. JOHN RYAN: Are you aware that he makes representations to Liverpool council on a variety of matters in, including this one?

Mr HARRINGTON: Yes, I certainly do.

The Hon. JOHN RYAN: Do you have any concerns about Frank Mosca?

Mr HARRINGTON: Yes, I have concerns about Mr Mosca. Mr Mosca is a local architect, and I would say that with most business, as far as development applications that come before council, he would deal with a major proportion of those development applications. Over the years I had formed the view that he gets preferential treatment.

The Hon. JOHN RYAN: How have you formed that view?

Mr HARRINGTON: In the inquiry I made criticisms of Mr Mosca and—

The Hon. JOHN RYAN: What inquiry?

Mr HARRINGTON: Emeritus Professor Maurice Daly's inquiry into Liverpool council. Actually as an example of his influence, one night at a council meeting he was successful in overturning a council decision by entering the chamber and speaking to councillors while the meeting was in progress. The matter concerned a serious application to redevelop a heritage site in the southern CBD. The vote was taken and the application was lost. Mr Mosca entered this chamber and spoke to a councillor who spoke to another councillor who went and spoke to the Mayor and came back to his seat. There was a call for a recount and the vote was overturned. I believe that that is a prime example of an influence that Mr Mosca had on this council.

The Hon. JOHN RYAN: Not to put too fine a point on it, you know that Mr Mosca is a member of the Australian Labor Party?

Mr HARRINGTON: Yes, I believe he is the President of the Austral Branch of the ALP.

The Hon. JOHN RYAN: Do you believe he exercises influence within council as a result of his being a member of the Australian Labor Party?

Mr HARRINGTON: I think there must be some connection through friendship, association. Bearing in mind that there has been no application or DA from the ALP to council, where he would have had a direct conflict of interest. Being in a political party and holding a position in a political party, and obviously on friendly terms with other members of that party on council and having as I said earlier a majority of the applications for DAs coming before council, I would say that he was in a very influential position.

The Hon. JOHN RYAN: Are you aware of the process used to consider the application from the Orange Grove factory outlet?

Mr HARRINGTON: Yes.

The Hon. JOHN RYAN: Do you think Mr Mosca's influence was in any way beneficial in that process?

Mr HARRINGTON: No, because it did not come to the councillors. It was made under delegated authority.

The Hon. JOHN RYAN: So your concern is not that Mr Mosca had undue influence on council staff but that he had undue influence on councillors?

Mr HARRINGTON: I have given evidence of that, yes. I do not have any evidence of him having an influence on professional officers of council.

The Hon. JOHN RYAN: Do you know who Mr Gerard Turrisi is?

Mr HARRINGTON: Yes.

The Hon. JOHN RYAN: Do you think Mr Mosca had undue influence on him?

Mr HARRINGTON: I do not know that. I could not say yes he definitely did. I could not give you an example of it so I could not say that he had an influence on Mr Turrisi.

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

Mr HARRINGTON: Yes, but only that he was the officer who made the decision and a former officer of the council.

The Hon. JOHN RYAN: Do you think Mr Mosca had any improper influence on him?

Mr HARRINGTON: I have no idea.

The Hon. JOHN RYAN: Are you aware that the application for the factory outlets was not advertised until the end of its consideration and that the failure to advertise it had been a mistake that was corrected just prior to the development application being approved?

Mr HARRINGTON: I did not know that at the time. It surprised me to read in the media or to hear on Friday last that the approval was given so quickly after the advertising.

The Hon. JOHN RYAN: Would it concern you more or less to know that the explanation given to this Committee is that the matter had been subject to quite detailed study and consideration over a period of 10 months, it was discovered that there had been an error in failing to advertise it so essentially the work had been done, it was advertised and when there were no responses the development consent was approved largely because there was no further work to do with it and it had been fairly lengthy? For example, to use the words of the council officer, I think he "wanted to get it off his desk". Does that explanation sound reasonable to you or would you have some concerns with that?

Mr HARRINGTON: I would be concerned if someone just wanted to get it off their desk and I would be concerned if something should have been advertised and was not advertised.

The Hon. JOHN RYAN: But it was. Does that alleviate your concern?

Mr HARRINGTON: It was finally advertised so that alleviates my concern, yes.

The Hon. JOHN RYAN: Is it fair to say that your concerns with Mr Mosca are that he is a good lobbyist with councillors but you do not have any concerns about corrupt conduct as far as council officers are concerned?

Mr HARRINGTON: No, I do not, but bear in mind that I would see him operate only through council meetings and see Mr Mosca at council along with other advocates and people from the public. I would not be in the building or where he might have been talking with staff to have a judgment of him there at all.

The Hon. JOHN RYAN: Do you know whether Mr Mosca knows Mr Craig Knowles?

Mr HARRINGTON: Yes.

The Hon. JOHN RYAN: How close do you think their relationship is?

Mr HARRINGTON: I gather that just through being a member of the same party, the position of an architect in the city and having contact with everyone in the city where things were happening—developments—and going to ALP branch meetings, he would probably have quite a friendly or strong friendship with him.

The Hon. JOHN RYAN: Is that speculation on your part or something of which you have direct first-hand knowledge?

Mr HARRINGTON: It would be speculation until Friday but I heard at the hearing at Parliament House that there was a strong association there.

The Hon. JOHN RYAN: Thank you.

Ms SYLVIA HALE: Mr Harrington, as a former mayor, would you have expected Mr Paciullo to have known of the development application and to have been kept informed of its progress?

Mr HARRINGTON: Yes, I was surprised to hear what Mr Paciullo said, but then it depends on the circumstances because you are the mayor of the city and you have your finger on the pulse. The only official explanation I could think of where he might not have known about it—and this could be the actual point—is that the mayor of the day participates in selecting the council agenda for the upcoming meetings in consultation with council officers, priorities of issues and that sort of thing. Bearing in mind that this matter did not come to the council initially, he would not have had that benefit. That site has been before the council since the late 1980s in

Liverpool. It is not as though it is someone just blowing into town; there has been a history of applications coming to council. So I am surprised that he had not known of it, yes.

Ms SYLVIA HALE: In your experience, even if there were no objections to a development application would such applications come before council because they might set a precedent or have other implications that the officers might be aware of but that residents might not?

Mr HARRINGTON: They would not necessarily come before the council but they would come up in council committees or presentations so that councillors are aware of what is happening. Going to the answer to the previous question, in those briefings councillors get from council officers we are kept up to date and made aware of what is happening in town—what is coming up, different views and that sort of thing. So by attending those meetings you pick up some knowledge of things that might not necessarily come before the council for a decision but you know that they are about.

Ms SYLVIA HALE: So, as a councillor, you would have known that this development application was before the officers?

Mr HARRINGTON: I can remember hearing mention of there being an application from the discount site. I cannot remember a lot of details about it, but I was aware of things happening in that area.

Ms SYLVIA HALE: Do you find it strange—presumably you have talked to mayors and councillors from other areas—that one firm or one person would be responsible for the bulk of development applications, which I presume were fairly large scale rather than very minor ones, that came to council in the Liverpool area?

Mr HARRINGTON: Are you referring to the manager of planning or to one of his planners?

Ms SYLVIA HALE: We heard evidence that three-quarters of the development applications—the bulk of development applications—that came to the council came from Mr Mosca.

Mr HARRINGTON: Yes.

Ms SYLVIA HALE: Does that not seem to be a disproportionately large number?

Mr HARRINGTON: Yes, but I think it goes to how successful those people are in their workplace, their contacts, their friendships and the networking they are involved with. In fairness to Mr Mosca, I remember that before he came on the scene there was another firm of architects in Liverpool that did a lot of work before council, but I do not believe to the extent that Mr Mosca has.

Ms SYLVIA HALE: Were you aware that that firm of architects had any particular links to the Labor Party or members thereof?

Mr HARRINGTON: No, I do not know.

Ms SYLVIA HALE: You said that you supported the Orange Grove development but that you had different views from Mr Paciullo on a number of comments that he made. What are those differences?

Mr HARRINGTON: I supported his views on him feeling offended by Mr Carr's comments relating to Orange Grove. I do not share his views on Oasis because I opposed it for many years. As to his comments about Mr Mosca and not thinking that there was any preferential treatment, my view is that I thought there was.

Ms SYLVIA HALE: Thank you.

The Hon. DAVID OLDFIELD: Mr Harrington, the Labor Party has made a lot, or attempted to make a lot, about how controversial this was, how come people did not know about it and everything else. Do I understand that if there was any controversy it only came about when Westfield—a competitor—brought the court action? There was no community group jumping up and down, no protests or vast numbers of letters to the council complaining about any potential development, even though it had been with the council for some 10 months.

Mr HARRINGTON: That is correct.

The Hon. DAVID OLDFIELD: Under the delegated authority process there would be many applications—for example, you would be dealing with swimming pools, fence heights and all sorts of things, ranging from small things to million-dollar applications for different developments—about which there were no objections. You would not necessarily be informed specifically of these things, would you?

Mr HARRINGTON: Not necessarily. Someone quoted to me that we only see about 3 per cent to 5 per cent of all matters. The rest are delegated authority for the reasons that Mr Paciullo gave earlier—for example, the volume of work that is coming before Liverpool council. Liverpool is such a growing city.

The Hon. DAVID OLDFIELD: So any supposed controversy was brought about by Westfield, not the community?

Mr HARRINGTON: In this matter, yes, I believe so.

The Hon. DAVID OLDFIELD: You were in support of Orange Grove and I gather from what you said before that you still are.

Mr HARRINGTON: Yes, very much on this matter. On previous occasions Mr Paciullo was against the cinema, I was for the cinema; I was against the service station development—but that might have been before his time. This particular applicant has been before council since the late 1980s until today on different matters relating to that site. I looked at each application on its merits and on some occasions have been in support and other occasions have been against.

The Hon. DAVID OLDFIELD: Since the development has been up and running or just prior to its approval—most particularly since approval and since it has been up and running—has anyone in the community, such as shopkeepers or anyone in the Liverpool CBD, approached you with their concerns about loss of trade, having to put off staff or anything like that?

Mr HARRINGTON: No-one at all.

The Hon. DAVID OLDFIELD: Are you aware of other people in the community with a profile, such as yourself or other councillors, who have shared with you any concerns raised by others about these sorts of aspects—for example, job losses, CBD complaints and stores concerned about having to close?

Mr HARRINGTON: No.

The Hon. DAVID OLDFIELD: Thank you.

The Hon. PETER PRIMROSE: Are you aware of a report in the *Sydney Morning Herald* of 21 July this year that confirmed that the Independent Commission Against Corruption was asked "two months ago" to investigate "council allegations of preferential treatment for developers" in relation to Orange Grove?

Mr HARRINGTON: I do not remember seeing that story, no. I am not aware of that.

The Hon. DAVID OLDFIELD: The headline of that story read "ICAC alerted to shop development claims months ago". One paragraph stated, "Several staff told the *Herald* of pressure brought to approve the development even though it was arguable that a factory outlet complied with the zoning." What are your comments on that?

Mr HARRINGTON: That surprises me. I did not see the story and, as I said earlier to another questioner, I have not had any other councillors come to me with opinions about that.

The Hon. PETER PRIMROSE: If you have not seen the story and if people were putting pressure on staff about that development—and that pressure was being brought, according to the story, on planning staff to approve it—would you describe that as corrupt conduct?

Mr HARRINGTON: No, not necessarily, because to me corrupt conduct does not mean pressure. People would obviously talk to planners, pushing whatever their application was. But that conduct would not necessarily be corrupt. In my view corruption would be if there were any moneys involved, doing something that was against the law or having a conflict of interest in taking part in that discussion.

The Hon. PETER PRIMROSE: Thank you.

CHAIR: Thank you very much, Mr Harrington, for your time this morning. Mr Paciullo has requested that he be given the opportunity to clarify a particular matter. There being no objections, I invite Mr Paciullo to come forward again and we will clear up the matter.

(The witness withdrew)

GEORGE PACIULLO, former Mayor of Liverpool City Council, on former oath:

CHAIR: Do you wish to make a statement in relation to an earlier matter that was not entirely clear?

Mr PACIULLO: I was asked by committee member Griffin if I had a recollection of knowledge of the legal challenge being mounted by Westfield and I think I answered that I did not. I have been reflecting on that answer and exercising my mind about that and I am now able to say that I have recollected someone mentioning to me that there was a legal challenge. There was not any action I had to take. It would have been at the time, I imagine, when I was under severe trauma because of the second inquiry—the Daly inquiry—into the council. It could have been—it probably was—general manager, Mr McCully, that might have mentioned it to me but it would have been no more than that. I would just like to correct my statement in that regard that on reflection there was some reference made to me or some advice given to me that that was occurring.

The Hon. JOHN RYAN: This, of course, was well after the development consent had been finalised?

Mr PACIULLO: Yes.

(Witness retired)

SAM NASSER, shop owner, Gloria Jean's, P.O. Box 194, Oatley, 2223 and

SANDRA HEATHCOTE, shop manager, Rockmans, 33 Florence Street, Mount Pritchard, 2170, and

LORAIN WHITE, retail controller, Bag Company, P. O. Box 446, Winston Hills, 2153, and

ANTONIETTE BOSCH, sales assistant, Oneida International, 4 Keller Place, Casula, 2170 and

GLEN BORWICK, company director, Shop 47 Designer Outlet Centre, Cumbelland Highway, Liverpool, and

TONY SAHOTA, director, Pearl Leather, 4/109 Fairford Road, Padstow, 2211, and

KARIMA (also known as **KATRINA**) **HAYEK**, shop manager, Rima Shoes, 11 Arietta Circuit, Harrington Park, sworn and examined:

CHAIR: I draw to your attention an opening statement I made this morning, copies of which are available. I remind witnesses that whilst any remarks they make to our committee in this hearing are covered by parliamentary privilege they should take care that any comments they make outside the committee are not so covered.

In what capacity do you appear before the committee?

Mr NASSER: As an affected retailer.

Ms HEATHCOTE: As an individual.

Ms HAYEK: As an individual.

Ms WHITE: I represent the company today.

Ms BOSCH: As an individual.

Mr BORWICK: As a company representative.

Mr SAHOTA: As a company representative.

CHAIR: Do you want to make an opening statement?

Mr NASSER: I would like to make a couple of comments particularly in relation to points (d) and (e) of the terms of reference of this committee. There has been a lot of exchange in relation to local politics, local branches and people trying to get access to Ministers and all sorts of things, but the real issue has been completely sidelined by the PR and spin doctors of all the relative sides. The facts of the matter are that there are going to be several hundred casualties from the ego fight that is taking place in Liverpool. As a third generation retailer I was hoping that my son one day would be able to practise business fairly in this State. It is now seeming apparent to me that that may not necessarily be the case.

The weight of the argument is quite simply this. There are some 50,000 signatures on a petition calling for the centre to be opened. There are the most senior planners in New South Wales recommending that this centre remain open for the economic benefit of south-western Sydney. There are some 450 people going to lose their jobs. There are some 60 robust—growing more so by the month—viable businesses in this shopping centre that will be closed. Historically this is unprecedented ever in Australia. In this twenty-first century Australia we are now going to close down a successful commercial venture in the most critical part of Sydney where unemployment is probably the highest of all areas. It just defies commonsense.

I would close with this comment. If the Shopping Centre Council of Australia were to go out and find and employ a very strong advocate to close down this shopping centre it need look no further than the right Hon. Bob Carr. He has made some very misleading statements. He has lied about the number of jobs. He has used

public taxpayer funded resources to put a spin on this issue absolutely shamefully to the detriment of south-western Sydney which has been loyal to the Labor Party for how long? Who is Bob Carr representing? What an absolute tragedy for Australia that this shopping centre is going to be closed? What an absolute tragedy this is. I ask all of you to think about it. There has not been one person come forward and say "Let's look at a compromise" or "Let's put the egos aside and let's have a look at the victims of what is happening here." What a tragedy that the Government of New South Wales is overseeing. They are actually going to close this place down.

Honestly, when I first heard about this three months or so ago I honestly did not even take it seriously. I have been in retail and business for 20 years. My whole family's history is in business and I, not for one minute, took it seriously that this would actually be closed down not in Australia, not like this, not with so many victims and not for so little gain. There has not even been a credible planning argument put forward to close this down. Bob Carr's notion that there is not enough public service infrastructure to service that area—there are 50,000 signatures on a petition—perhaps you want to go and build some! What is government about? What has government in New South Wales gotten to that we are closing down a venture like this? This is an outstanding venture. It is fantastic for the area.

There would be pages and pages of benefits. You have the whole planet that want to see this open, and you have the Shopping Centre Council of Australia and Bob Carr that want it closed. I reckon there are some real serious answers that need to be provided irrespective of what you do. Look, I do not care: I will walk away from there, but I am absolutely ashamed of the New South Wales Government and what it is doing to south-western Sydney. I really think the heart of this matter is this: I do not know how much support Bob Carr has in the Australian Labor Party of New South Wales but it really goes to the heart of the cowardice of the backbench that if no-one is prepared to stand up and say "enough is enough". There are far too many casualties for this to happen. This cannot happen, not today, not in this country, not in a democracy. It should not happen.

Ms HEATHCOTE: I totally agree with Sam Nasser who has made a lot of good points. I am here also to express my concerns for myself and my workers. The burden of having to look for another job—it personally took me six months to find the position that I have. I am more than happy being there and the uncertainty of facing a financial struggle and the mental stress that it could have on 450 people to look for another job in the south-western region which is known to be one of the highest unemployment areas is a little scary. To have uncertainty, an uncertain future both financially and mentally is just unacceptable in today's day and age.

Ms HAYEK: I personally agree with Sam Nasser and Sandy. I started a casual position at Rima Shoes as a sales assistant and to be offered a managing position with about 13 staff members that I had to control at the age of 26 was a miracle for me. I have worked in retail for so long but this opportunity was something I could not miss out on. I am a mother of three kids. I have got a house loan to pay off, a car repayment to pay off, as well as my husband and me, we do work very hard for this. The main issue why I am here is that we have got jobs. We are happy with what we are doing. Whether it is a casual, managing, full-time, part-time we do not need other people to find us jobs when we already have a job. They need to find jobs for other people that sit on the dole saying "I am going to find a job tomorrow". They are a people they should be helping, not us. I agree with everyone here who represents themselves. The committee has to understand where we are coming from. This is very hard for us. If we do close in two weeks financially, physically and mentally this will affect everyone there.

Ms WHITE: I agree with what Sam and everyone else has said and I will not go over those points but I would like to say that I have been actively involved in factory outlets, and the development of them for the past 10 years. In regard to the infrastructure, if anyone knows about the factory outlets at Homebush, when I opened up a shop at Homebush I did not have maybe more than 20 people apply for a position there, the main reason being they could not get to Homebush to work. When that shop was opened and I was still trying to get staff the continual problem I had was that it was not accessible. When I employed for staff at Liverpool I literally had hundreds of people apply. So I do not want to hear that this shopping centre is not accessible because it is very accessible. So that is one point I would like to bring up.

The other thing I would like to say is that Mr Carr is very unaware of world trends because factory outlets should not be placed next door to Westfield or mainstream retailing. That is not what factory outlets are about. In actual fact if you look where Homebush is, or interstate to Moorabbin, if you go to Queensland to Harbour Town, none of those places are near mainstream retailing. Therefore, their accessibility might be a little bit different but, believe me, people do find them and they do find them easy to get to. I believe that in America

they are actually in deserts and places like that. This is the greatest form of retailing in America. It has the greatest growth. We must be the laughing stock with the retail industry of the world that we are prepared to close a successful centre like this with mainstream retailers who are prepared to sell factory outlet things at cheaper prices to give the consumer a choice of shopping. We are saying "Sorry, consumers, you can't have a choice. You have to go to the mainstream Liverpool area where the higher rents are to pay the higher prices." I do not think that is very fair on us.

Ms BOSCH: Members, I believe the closure of the outlet will affect many of us. Two of my young nieces are also employed at the centre and they rely on the job greatly because one is a student and the other is looking for work in her career which she is not able to find. Personally, I will suffer financially and I will find it difficult to find another job due to my age and having been out of the workplace for 14 years. Previously it took me more than a year to obtain this job, and having limited skill I will find it difficult out there to find another job and carry on with my family life and support my children.

Mr BORWICK: I am a retail adviser to Associated Retailers Ltd, with 1,700 stores Australia-wide, sports and leisure division. I am co-owner of Sneakers, a footwear and clothing operation at the Orange Grove outlets centre.

In the last two months I have read many articles and listened to a number of radio interviews about the impending closure at Orange Grove. I have not heard one sensible or factual statement why Orange Grove should be closed. The main reasons put forward against the final approval of the centre are the effects that Orange Grove will have on the Liverpool retail precinct and the lack of infrastructure at Orange Grove.

Orange Grove has a point of difference. It is servicing a strong, growing demand in the south-western region. The centre is attracting a large number of consumers from outside the Liverpool area. The centre is helping the main Liverpool retail precinct by not hurting or harming its growth. Let me give you just a few examples.

On 27 July 2004 Target at Liverpool recorded sales of \$414,000 on a 14-hour trading day, which was a record. They rewarded their staff with bonuses. There are currently fewer than eight retail shops available for lease in the main Liverpool shopping area. This represents a very low vacancy rate. It is clear that we are not impacting on the main Liverpool shopping area, but in fact bringing new business and consumers to the area of Liverpool.

As far as infrastructure at Orange Grove is concerned, most factory outlets and outlet centres throughout New South Wales are not serviced by trains or buses. A prime example is the DFO centre at Homebush. There are 90 operators in the centre, and there are no trains or buses to that centre.

I have brought with me today a book called *Pamms Guide to Factory Outlets and Outlet Centres in New South Wales, 2004-05*. There appear to be many inconsistencies with zoning and usage clauses which remain unchallenged.

Mr SAHOTA: I have been in retail for four or five years. I had shops in Westfield Liverpool, Sydney Central Plaza and Westfield Burwood initially, which I closed down due to the reason that I was not making money there; I was more or less paying for Westfield. That is why I came out of that and opened a shop in Orange Grove. I was quite happy that I opened a shop there and I was making money, and was actually able to pay off my mortgage and all my expenses. The owners have been excellent to me, and I have had less stress. Working with Westfield caused a lot of stress for me over the last three or four years. This shop is very important because it is the only shop I have had and it is the only hope I have to keep trading and keep paying my bills. Otherwise I have no other outlet after this and I do not know where to go after this. The Paper on

CHAIR: There has been quite a bit of controversy about the number of jobs affected by the closure. Do any of you have a definitive answer to that question? If not, who would be the best source from which to get a definitive figure?

Mr NASSER: I would like to have a go at answering that question. There are 60 outlets, but we will just use one and when we have finished we will multiply it by 60. If we imagine one business trading for seven days, with an hour to open and an hour to close, that is about 10 hours. If we multiply that by seven, it is 70 hours. Obviously, you cannot run a shop with one person, because if they needed to have a break or go to the toilet you

could not simply close the store. The minimum number of people you can have in a store at any given time is two. Given that there are 70 hours, that would be a skeleton of four people per outlet, and there are 60 of them. That takes you to 240, which is about 60 or 70 above what Mr Carr has said.

But let us add some more to that. Let us talk about the employees at the centre: centre management, the cleaning people, and the security people. We have done those numbers based on four people per store. I have 14 employees in mine. Regarding the 450 quoted, when I first heard that I was surprised because I thought there would be more. I am not quite sure whether all the Committee members have been there, but it is huge. There are tens of thousands of people going through the place. It is incredible. It is an outstanding commercial success story. The number of jobs cannot be 450. I guarantee that if you go into Krispy Kreme, McDonald's, Office Works, Harvey Norman or any of the big retailers around the centre that have not been challenged, you will see that their business has increased by probably 20 or 30 per cent, or may be more.

Gloria Jean's at Liverpool Plaza, which is outside, in the main mall of Liverpool Westfield, has demonstrated the largest growth of any Gloria Jean's store in New South Wales in the last six months. This is not bad for Liverpool. This might be bad for Burwood, and it might be bad for Bankstown, but there is absolutely no way that this is bad for Liverpool.

I would put to you that the employment figures, if measured properly and without the spin, might be closer to 600 or even 700, if you compare the economic benefits of churning out up to \$100 million in sales a year at this outlet. When you look at that kind of economic input into a local area, one would have to say that that is going to generate significant employment for all the surrounding services. Those 60 shops must have stationery, so Office Works obviously is going to get some extra business. All the big ancillary businesses in the area are going to benefit. How can it be only 450? We are saying it is 450 jobs and we have been told we are lying. Bob Carr has said on several occasions that he does not think it is even 200 jobs. I do not understand who he is representing.

The Hon. JOHN RYAN: The Government has said that it has made efforts—and I think the shopping centre liaison officer may have said something along the same lines—that efforts have been made to find the people who are working in the centre alternative jobs in the event of the centre closing. Would you like to comment on those efforts to assist in finding you alternative employment?

Ms HAYEK: We are asked this question, but we have a job. Then when we tell them we have a job, they say, "But we are trying to find you a job." What job have they actually told us that they have found—as a store manager in a shoe shop? Most of these jobs are casual positions, such as bus drivers—things that are so petty and way out of our league. We are nowhere near what they are offering us. They do not understand the fact that we are not going to help them in finding us a job because we have already got a job. I am sorry, but we have rejected them. Personally, I rejected it. I said, "I am really sorry, I cannot get you to help me at this stage because I have already got a job. As far as I am concerned, I am going to stand on my own two feet and I am going to fight it all the way."

The Hon. JOHN RYAN: Would anyone else like to comment on the efforts by Drake and the liaison officer to assist you in finding alternative employment?

Ms HEATHCOTE: Could you repeat the question?

The Hon. JOHN RYAN: The Government says that the centre has to close, that it has done its very best to help you find alternative positions. Would others like to comment on that? I think it is fair to say that the Government takes the view that the management has not facilitated that process very much. As a result, I suppose, the inference is that the fact that some of you will be out of work in two weeks time is not the Government's fault but Mr Gazal's fault.

Mr NASSER: Firstly, I want to remind everyone that in our business and several others that are entitled to trade legally, irrespective of this decision, there are about half a dozen that are legally allowed to trade. In the finalisation of this, the court has not said that on the 24th or 25th of this month, in a couple of weeks, the centre is to close. The court has said that it wants everybody to go back and make submissions as to how long it would need to be to wind up this shopping centre. That goes to the heart of this.

Let us say, for example, you have 10 people running a business. If those people were to leave, you would immediately have to close that business. The reason you would have to do so is that you cannot now re-employ anybody at the designer outlets at Liverpool. Who is going to respond to a job advertisement there? You are just not going to be able to get anyone, so the businesses would have to close. So there is that side of it from a business viewpoint. From the other viewpoint, it is difficult to get a job in Liverpool. So when you get a job, it is not an easy thing to just be shoved along and moved to something else. There are several thousand people out there who want jobs. Give it to them. We are getting rid of 450 jobs when there are thousands of people who want work. They are saying, "We have got some jobs that we can give to you." Give them to people who do not have jobs. That is what Government is supposed to do, is it not?

The Hon. JOHN RYAN: Are any of you leaseholders, as opposed to employees?

Mr NASSER: I am.

Ms WHITE: I am.

Mr BORWICK: I am.

The Hon. JOHN RYAN: Were you made aware that the centre was under challenge at the time that you signed your lease? Could it be said that because you were made aware of the fact that the centre was under challenge, you have made a business decision to take a risk and now that the centre is to be wound up you have taken the risk and failed?

Ms WHITE: Our company was not made aware that it was under challenge. We were told that Liverpool council was approving the zoning, that a paper process was going through. When I knew that Craig Knowles was opening the centre, that was like an affirmation to me that obviously everything was fine and that maybe the statements about it being approved were wrong. I can honestly say that we were not under any false impression that it was not going to continue to stay open. We would not invest in something like that. That is just bad business; you just do not do those things.

The Hon. JOHN RYAN: As I understand it, the centre became the subject of legal challenge some time around June 2003. Were any of you told by Mr Gazal that there was a legal challenge, and informed of the potential consequences of that at the time?

Mr NASSER: We did not spend any money, not one cent, at designer outlets at Liverpool until after Mr Knowles opened the centre. Who would have looked for that as a disclosure, when you have the highest authority on planning in New South Wales cutting the ribbon and saying what a fantastic thing this is for Western Sydney, what a great thing it is going to be for local employment, and what a good news story it was? Who would then go and sort through the fine print? If you cannot take the Minister for Planning on his word that this is a good thing for Western Sydney, what are we all doing here?

The Hon. JOHN RYAN: Did Mr Gazal not inform you in writing that there was a legal challenge at the time you were signing your lease, as I understand he is required to do by law?

Mr BORWICK: We were relying on development application approval. Our leases were in place. I personally did not have any written documentation in reference to that. But I did speak to some other retailers in the centre. Some were aware of it; some were not, but that was not in discussion. I have seen nothing in writing but that is in discussion with other retailers. Some knew about it and some did not.

The Hon. JOHN RYAN: It has been stated in other submissions to this Committee that you are getting unfair advantage with other traders in Liverpool town centre because you are able to pay cheaper rents and as a result you have unfair competition with other people who are in correctly zoned retail areas and pay higher rents. Would you care to comment as to whether you think you are being unfairly treated in that regard?

Mr BORWICK: We are a clearance outlets centre. We carry end-of-season lines. We carry odd stock. We carry out-of-season stock and faulty stock, to a degree. Most stores do not carry the latest and greatest product. As I said in my opening statement, there is a niche in the south-western region for this type of centre. It is a clearance centre. It is like DFO. DFO is similar, not the same. There are a lot more fashion operators in DFO. We are a clearance centre.

The Hon. JOHN RYAN: I do not know whether we have investigated this properly but in addition to the employees who stand to lose their jobs, would any of you who hold leases like to inform the Committee of how much you have invested in setting up your shop and what happens as a result? If the centre is closed what happens to that investment?

Mr SAHOTA: I have invested about \$45,000 in shop fittings, and I made stock for selling up to about \$150,000. After it closes I have nowhere to go and all the stock is going to be, I do not know where to move the stock so I will lose a lot. I have no cash flow.

The Hon. JOHN RYAN: Would any other lessees like to comment?

Mr NASSER: We probably have the most substantial investment. We have over \$400,000 spent there at present. If you have been there and had a look you will see that it is all there and apparent. It is also a viable business. It is a strong growing business and it is going to employ more people and it will do bigger figures and more sales as time goes by, if it is allowed. And it is mortgaged obviously against our house.

The Hon. JOHN RYAN: What happens if the place closes?

Mr NASSER: I will just take my documents maybe and give them to Bob Carr and say, "You clean up the mess." I do not know. What do I do? That is a good question. It is quite ironic that no-one from the Government has come forward and said, "Okay but we need to do this because it is so important to close this shopping centre down. It is so important for New South Wales to close it down and in return for putting all these people out of work and closing these 60 businesses we will come forward with this package to offset the damages and stop you losing your homes, stop you being financially ruined." If it is such an important decision for New South Wales that the Government would close this centre down, then it would be equally important to save the financial ruination of all the people who are affected. You would see that as a natural balance, would you not, that if it is so important for the Government to close it down on one hand that it would be equally important on the other hand to say, "Okay, we will compensate all the people who have been ruined, because this is such a difficult decision to make and it is such an important decision to make for New South Wales. In order to close all these businesses down and ruin all these people, we will compensate you."? Silence—we have seen nothing for this really important decision to close it down.

The Hon. JOHN RYAN: Finally, have any of you been able to make representations to the Government about this matter, and what response have you received? Have you written to members of Parliament, Ministers and things or tried to phone them and made your voice heard? Have you received a response?

Ms HEATHCOTE: I have actually written to my local member, as well as ringing her. That is Reba Meagher. I have had no communication back from her whatsoever. That has probably been two letters to her and probably three or four phone calls over the past weeks and none of her representatives have got back to me at all.

Ms WHITE: Can I just say something about another matter that we were talking about before?

CHAIR: Sure.

Ms WHITE: What we have to understand is that factory outlets are part of retailing. It is not something new. It is something that has been around for a long, long time. Australia has been a lot slower in developing in this area, and part of the reason of New South Wales is that it cannot be put on land that it is too expensive to develop in this way so the opportunities are not there. This is where Orange Grove was perfect for this type of development. In every way it is just how a factory output should be run. If you go into the Redfern area, Waterloo or Alexander, I have a shop in that area. There are backstreet factory outlets operating everywhere, and a lot of them are major retailers out of Westfield. In this environment it is controlled; it is run the way it should be run.

What will happen is that people will just do it the other way more and more. Will they all be closed down, because they should be closed down? They are not in areas that have been designed to retailing, yet it is everywhere. This is nothing new. I think this is what we have to come to terms with: It is here to stay. It is the biggest form of retailing in America. It is the biggest growth area and we are just setting ourselves back years.

We will never do it again because, to begin with, there will not be the land or the sites to do it in New South Wales. In other States it is a bit more accessible because of the prices but not here.

As I said, it is for retailing and for the consumer, what you are doing. You will not close these backyard people but you will make all that happen more so and you will close your eyes to that. Mr Carr could not care less about that because Westfield or nobody will complain about that. For retailers to say that we are getting cheaper rents in these areas, they get cheaper rents just by not being in Westfield. If you go in Westfield you choose to pay Westfield rents and you choose to be there. If you choose to be out in the centre you choose to be there for your reasons, and if you choose to be in the factory outlets that is different. We are a wholesaler. We sell through there what we cannot sell through a retail outlet. We give the consumers the choice to come and buy last season's things at a cheaper price and they are more than happy to do that. They come to us because they expect to get a bargain. They expect to get something at a factory price. We are not Westfield and we are not someone who should be in the main street of Liverpool either. We should be in a controlled area like this and this is how these sorts of outlets should operate.

The Hon. JOHN RYAN: If you wanted to say something to Bob Carr or the Government today what would you say?

The Hon. DAVID OLDFIELD: Leave the four letter words out of it.

Ms WHITE: I would like to say, "Mr Carr, I am very sorry that you will not listen to what the people are telling you they want." I think that is the saddest thing. You are here for us. You are here for your people. You have been elected to represent the people of New South Wales, and what you are saying today is, "I know what the people of New South Wales are saying. All those petitions, all those signatures have told me what you are saying: The centre is a good centre. I know everything is right. There is really nothing wrong with what is happening here but for some reason"—no, Mr Carr, you will not approve that. I think we all have an idea of maybe why you will not approve that but we are the people of New South Wales who voted for you and trusted you to have our interests at heart. Remember: the laws are here for the people, not for you, Mr Carr, and the laws can be changed if it is best for the people. I do not think there is a person here today who can honestly say that Orange Grove is not in the best interests of people.

Ms HAYEK: I would like to say to Mr Bob Carr that it is very sad if he thinks that the situation will be forgotten by the time his election comes because whether it is two years or three years down the lane Orange Grove Road will never be forgotten because the public will not forget this because of the feedback that I get from customers who come and just to see us, just to tell us how sad it is, how sorry they feel, their comments about Westfield, especially Westfield. I had a customer come in and she said to me that she has not shopped in Westfield for seven years. She lives 10 minutes away from Westfield. She goes either to Burwood or down to the city way because she has never been to Liverpool Westfield. She does not like going there. Since we have been open she has been there every week. I think we have more than about 50 signatures of customers who have signed the petition, maybe a bit more than that but we went to Diane Beamer's offices. We went to Craig Knowles' offices and we gave him all the signatures. We actually sent Diane Beamer about 300 of the signatures of all the employees who work in the complex. No response.

CHAIR: None at all?

Ms HAYEK: She did actually ring me. All she could say is she cannot do anything about it, it is illegal, it is illegal. There is something someone can do. If this one person can stand up and say, "Look, we cannot close such a big complex. There are 450 employees who will lose their jobs. Yes, we think we can find them a job." But where? No, there is no such thing as they can. They should go find the other employees, the jobless sitting at home doing nothing.

Ms SYLVIA HALE: Mr Nasser, on Friday Mr Gazal gave evidence that Mr Tripodi was fond of sitting in your coffee shop when Parliament was not sitting. Is it correct that you had seen him there?

Mr NASSER: I would not know Mr Tripodi if I ran into him. I have never seen him.

Ms SYLVIA HALE: So you do not know Mr Tripodi?

Mr NASSER: I do not know him.

Ms SYLVIA HALE: Do you know Mr Gazal?

Mr NASSER: Yes I do.

Ms SYLVIA HALE: Were you conscious of a meeting or did you become aware of a meeting on 22 May at round about 5.30, 6 o'clock between Mr Gazal, Mr Bargshoon and Mr Tripodi?

Mr NASSER: No, I do not.

Ms SYLVIA HALE: You were not?

Mr NASSER: No.

Ms SYLVIA HALE: You would since be familiar with Mr Tripodi's appearance?

Mr NASSER: Here, you mean?

Ms SYLVIA HALE: Yes, or as the local member.

Mr NASSER: I am sorry, I sell coffee. I am not privy to the ins and outs of politics. I kind of try and do what I do best, and that is sell coffee.

Ms SYLVIA HALE: Have you tried to make representations to members of Parliament as well?

Mr NASSER: To be blunt and honest, I actually could not be bothered. You know why? If the planning Minister opened it and the Premier of New South Wales has been absolutely hell-bent on spinning the story to knock this back. He has turned the State upside down using taxpayer-funded resources to steamroll this thing into the ground. Who will I write to? Who do I write to? I have prayed, yes, that is about my only hope. But in New South Wales, I am sorry. The highest authority is trying to crush this thing. So what do we do? Who will respond? Reba Meagher and Joe Tripodi and all the politicians, they are running scared. Who will stand up to Bob Carr?

I look at the Hon. Kayee Griffin. She is a respected person in the Labor Party. I will bet she has not challenged Bob Carr on this decision, and I will bet that deep down in her heart she will be questioning how can this really be happening. Good hard-working Australians like Morris Iemma and John Watkins, I know those people would be opposed to what is happening, but who will stand up to Bob Carr in New South Wales? The quote that was recently said about he owns the joint, he does. Who will legitimately say that he does not. This guy can do and say as he pleases in New South Wales. He was on television the other day, I think on *Stateline*, and the journalist was slaughtered. The guy interviewing him was slaughtered. He is a standover merchant. The guy did not get a word in in relation to this particular matter. I remember tuning in and it had not even finished when I turned off the television in absolute disgust. He is employed by us. Bob Carr works for us.

The Hon. DAVID OLDFIELD: Sack him!

Mr NASSER: Who was he representing? Who is he working for in this instance? That is what the 450 people who will lose their jobs want to know. That is what the 50,000 plus people who signed the petition want to know. That is what the retailers want to know. Anyone who wastes 15 minutes, half an hour or an hour to write a letter to a local member in Western Sydney is wasting their time.

Ms SYLVIA HALE: Mr Sahota, you said earlier that you had operated businesses within Westfield complexes?

Mr SAHOTA: That is right.

Ms SYLVIA HALE: And also now at Orange Grove, but you were suggesting that it was much more stressful when you were in the Westfield complexes. Could you indicate why?

Mr SAHOTA: Apparently, I have seasonal trading and I am very strong in winter and my business closes down in summertime and comparatively, the rent I was paying in the Westfield is much more less (sic) than what I am paying in Orange Grove and when I looked at the figures when I was trading in Westfield I was not making money. I was just working for Westfield. Every year the rent goes up by 4 to 5 per cent and the overheads are increasing every year. The business is not actually making money because it has come down—actually, the profits are low and I made a decision that I would pull out of Westfield.

Last year my father was sick in the hospital. He was going to have brain surgery and Westfield, they were giving me a hard time. They were telling me to lock up and go. Okay, they gave me a 24-hour lock up notice, which put me under a lot of stress because, on the one side, my father was sick in the hospital and I was looking after him and here Westfield is pushing me to pay the rent. I said, "Look, you want to lock me up, you lock me up. I don't care about the shop anymore. I don't care. My father is more important to me at this stage, okay". But they would not listen to me; they are too hard. I must say, they were very, very hard people to deal with. That is my personal experience. I do not know about other people but I have heard from other retailers in the centre when I was trading, that it is very, very hard, very, very tough. They would not listen to you once you lock up. Once you sign the lease, that is it.

I asked them if they could do some marketing; put some marketing expenses to work for my shop so that I can advertise and make some money. The manager said, "No. There is no budget for that." I said, "Well, you want me to pay the rent but you are not helping me out. You have to help me out." There was no response. To give me something, they do not want to give me nothing but when it comes to taking, they want the rent on time, every single cent, which is wrong. Dealing with Orange Grove, I am so happy here. I am happy to trade here for the reason that I am actually seeing that I have got the money coming in, so I can pay my bills of and I have got room to breathe. Honestly, this is a great opportunity for me because I have had experience with Westfield to five years and as soon as they got the signature in the Plaza, I pulled out of that place because I knew I was going to be under stress. That is it.

The Hon. DAVID OLDFIELD: Firstly, can I just say how terrific it is that you have all come here today, what you have said and how representative it clearly is of everybody at the centre. I am very grateful to have heard what you have had to say. I had about 14 years in retail myself so I can personally very much understand where you are coming from. It is extremely difficult for anyone in retail at any time, especially under the circumstances you are currently going through, and I am very sorry about that. Please bear in mind that even though I can only speak for myself, I am sure that I am not the only member on this Committee of the view that this centre should not be closed. Can you tell me—and I do not mind who answers this—whether or not there were indications, be they in writing, in conversation, anecdotal or hearsay, that there were potential problems looming with the centre, be it legal action and things along that line? Is it fair to say that you were operating under the understanding, which was correct, that there was a DA approval, that Mr Knowles had opened the centre and, indeed, would you not even be buoyed by the fact of the many millions of dollars that Mr Gazal was pouring into the place to build it in the first place? Could there be any true sense in any of your minds that there was a chance this place could actually be shut down?

Mr BORWICK: There was no doubt whatsoever that the centre would remain open. I have been in Stockton centres, Westfield centres and Lend Lease centres for over 20 years. We were at Bankstown Square probably 15 to 20 years ago and Bass Hill centre had applied. Lend Lease challenged that. It opened. Chullora opened; they challenged that. At Stocklands at Merrylands, Big W in Auburn, they challenged that. Each challenge was always a challenge and nothing else. Nothing ever came to fruition, so with all these facts and the DA, we had no doubt that the centre would be opened. We did not see any problems.

The Hon. DAVID OLDFIELD: With the situation where the Government has set itself up as an employment agency to find you jobs, which of course is a nonsense to anyone who owns a business; to try to find jobs for people who actually own businesses is complete nonsense. Are you aware that some of these jobs are in places such as Cronulla and Manly? I had to come from the northern beaches this morning and it took me two hours to drive here. I could not imagine how you would go by public transport from here to the northern beaches. It would not be very easy. Are you aware that some of these purported 150 jobs, which is not more than one third of the 450 jobs, are actually as far away as Cronulla and Manly?

Ms HAYEK: Yes. We were speaking amongst ourselves, just a couple of the girls in the complex. One girl said, "Yeah. I bet you they would have found us jobs somewhere in the city." I live in Camden and it takes me one hour to get to work in the morning just by leaving at eight, just with the traffic. Without the traffic it

takes about 35 minutes but with the traffic flow between when I drop the kids off at school it takes one hour to get to Liverpool. I arrive just after nine o'clock but if I have to be there early, I have to leave an extra half an hour to 40 minutes earlier to just get to work on time. I would like Bob Carr, or whoever is finding us these bloody jobs, how am I supposed to get from Camden to Cronulla for a casual position? No thanks. He can keep it. I don't want it.

The Hon. DAVID OLDFIELD: Would you also be surprised to know that the experts in unemployment who have been seeking these jobs for you actually noted that for some people it would not be a problem getting another job provided they were willing to relocate? How would you feel about selling your home in Camden and trying to relocate to Manly to get another job? Have you seen the property prices in Manly?

Ms HAYEK: I actually grew up in the Liverpool area. I used to live right across from the Whitlam Centre, so it was a big thing back then opening all this excitement stuff. Having a unit with three kids was very difficult for us so we actually moved out to Camden to have a bigger house, so there is no way in the world I am going to relocate for no-one. I live in the atmosphere for my kids, for the way they are going to grow up and the way they will be taught how to do things, right and wrong, so I am happy where I am. To travel an hour I can sacrifice but to travel 2½ or maybe three hours and have no family life? No thanks.

The Hon. DAVID OLDFIELD: It could be six hours backwards and forwards.

Ms HAYEK: No way. I would not hesitate.

The Hon. DAVID OLDFIELD: Mr Sahota, there was a story in the *Daily Telegraph* the other day suggesting that you were very angry and had not been informed. It was essentially saying that Mr Gazal had somehow misled you and you were very angry with him about this.

Mr SAHOTA: That is not true.

The Hon. DAVID OLDFIELD: Could you clarify that for us?

Mr SAHOTA: Larissa Cummings from the *Daily Telegraph* rang me up and she said she wants to interview me. I said, "Do you want me to come to the centre?" She said, "No, I would like to come to your warehouse." I said, "okay". She came down and she started interviewing me. She asked questions about the lease. I told her, I said, "Look, I was told about this shopping centre, the legality points. I was told that Westfield is suing, but I actually didn't sign the lease. Like, my solicitor is holding the lease." But she twisted the story. I told her about Westfield and how I pulled out of Westfield. I am happy where I am and I am doing well and I have got an excellent relationship with Mr Gazal.

But the next morning, when I heard this news, I was so upset and so angry that she had twisted the story. She makes me look like a bad person; she makes me look like I am not happy with Mr Gazal, whereas it is the opposite. It is totally wrong what she has put down in the newspaper. She put down how I was angry but she is wrong. She takes my photograph and obviously I am a little bit stressed in the photograph and she has taken that photograph and put a photo of Mr Gazal next me as if I am not getting on with Mr Gazal. This is absolutely wrong. She has put misleading information in this paper.

The Hon. DAVID OLDFIELD: A frightful situation. Have you spoken to her since about the fact that you have been misquoted?

Mr SAHOTA: I tried to ring her up the same day. I rang her in their office at Holt Street in Surry Hills. She was not there. I was told she was in Parramatta. I rang up that number and I was told that she is not in the office; she is out in the field. "She will ring you back." Since then I have not heard from her. I have left messages for her to call me back but no response.

The Hon. DAVID OLDFIELD: Thank you for clarifying that for us. Earlier John Ryan was asking a question and Mr Nasser was answering it. He was getting at what was going to happen when this centre closes. I think what he was really trying to find out from you is the level of suffering, in real, raw, clear numbers. We are talking about 450 jobs and just in the case of Ms Hayek, a husband and three children will be affected. The multiplying effect of these 450 jobs is everyone who supplies you and everyone who works for them in loss of trade, and it is everyone in your family. It multiplies out to well in excess of 1,000 even perhaps 2,000 people

who will be socially and economically impacted by this decision, not to mention Mr Gazal and everybody who works for him. I think what Mr Ryan was looking for was an answer that would, in some way, express the considerable level of personal suffering of your families by Bob Carr's personal decision making? That is what he was really looking for. You would be aware from the media of the allegations by others in relation to Mr Carr causing the centre to be closed on request from a corporate giant. Are you aware of any of those allegations?

Mr NASSER: Yes.

The Hon. DAVID OLDFIELD: Would any of you like to respond as to how much worse this might for you or how this might make you feel if you find out that there is ongoing suspicion or possibly even proof at some stage that Mr Carr has closed the centre as a favour and ditched 450 jobs, socially and economically affecting a couple of thousand people related to those 450. If it becomes evident that that is the case or is at least not cleared up to not be the case, how would that make you feel about Mr Carr?

Mr NASSER: If I can start. Firstly, in relation to the economic impact—and bankruptcy is the word you are looking for and that is the reality, absolutely.

The Hon. DAVID OLDFIELD: But it is a word that does not actually describe what happens as a consequence.

Mr NASSER: No, that is exactly right. It is a very simple word, but it is a very complicated process, a very damaging and harmful process, which leaves long-term impacts and effects on families. The second part of your question in relation to the allegations that have been made, it is hard to say, but you have got to look at the facts and the facts are this: There are 50,000 who sought the injunction. It would be fair to say that that is a pretty good cross-section of the New South Wales community. I have not heard of a bigger petition than one with more than 50,000 signatures, not in my humble existence anyway.

The Hon. JOHN RYAN: Not for a shopping centre, anyway.

Mr NASSER: Exactly. It is fair to say that that is a reasonable cross-section of the New South Wales community. So the New South Wales people want the centre open. The experts, the most experienced town planners in New South Wales want it open. Gabrielle Kibble, who was appointed by Mr Carr because he did not trust Liverpool council's decision making any more, has recommended also that this be rezoned and that this is good for the community. The 450 people who are going to lose their jobs think this is a good thing, and that that should not happen. The business people in the centre want to stay open, and they are happy with their businesses. I have not heard or seen anything by anyone—no-one has put forward a genuine justification for why it is to be closed.

The fact that these allegations have been made, what does Bob Carr expect! For people to say, "How can this be happening?" Of course, people will ask questions. People are entitled to answers. Just asking the question is not the heart of it; the answers are the heart of it. You are absolutely right, because what will happen down the track if there is information about that. Families have been ruined, people have lost their houses and all sorts of crazy happenings. What happens then if there is evidence that that has happened. Everyone hopes and wishes that it has not happened. But you have to ask yourself who Bob Carr is representing here. He is certainly not representing the New South Wales tax payer, not representing the unemployed people of south-western Sydney, and the local members are not representing their constituents.

Bob Carr is not representing small business, he is not representing free enterprise, he is not representing true sensible town planning principles. He is not even putting forward a legitimate methodology as to why they are going to close it down. I think those questions are valid and they need to be answered. I genuinely hope that the ICAC inquiry is a probing one and not a whitewash like we saw with the Oasis inquiry that was, really, just a joke. I hope this inquiry is genuine and actually gets the answers. The impact and amount of casualties this will leave behind deserve a genuine inquiry that gets to the true answers and why this is happening, why this has occurred.

Mr BORWICK: We have not been given one sensible, factual reason for the closure. And that cloud will remain. I am not anti-Westfield, I am not anti-Bob Carr, but we want one good reason to close the centre. If it is not infrastructure, if it is not competition, what is it? Can anyone here give me a reason why the centre should be closed? Is there one person in this room? It is not right. It is very unAustralian. We just want someone

to tell us. Can the ALP tell us? Can the Independents or the Liberals or somebody tell me why it is being closed? One reason.

The Hon. DAVID OLDFIELD: Mr Carr says he has lots and lots of reasons. The real question for us and for you in this case is whether those are the real reasons and whether those reasons are sustainable. That is what we are really asking, are they sustainable?

Mr BORWICK: In New South Wales there are 875 outlets, none of them have been challenged. DFO Homebush is on bulky goods zoning and has been trading for four years; there is no challenge. It is not about DFO Homebush, it is about all the outlets. Why us? I do not want to be here today, but this is unAustralian, it is not right. What is the reason? Someone give me the reason. Can the ALP or anybody?

CHAIR: It is the ALP's turn to ask some questions.

The Hon. KAYEE GRIFFIN: How many Gloria Jean's outlets do you have?

Mr NASSER: Five.

The Hon. KAYEE GRIFFIN: Are you a member of the Liberal Party?

Mr NASSER: I have not been to a meeting for five years.

The Hon. KAYEE GRIFFIN: Are you a member?

Mr NASSER: No, unfinancial.

The Hon. KAYEE GRIFFIN: Previously you were a member of the Liberal Party?

Mr NASSER: Yes, I was. Is that why you are closing down the business?

The Hon. KAYEE GRIFFIN: Previously you were a former councillor of Hurstville City Council?

Mr NASSER: Yes, that is right.

The Hon. KAYEE GRIFFIN: When you looked at leasing the premises that you have at the moment, did you look at any of the issues in relation to the development consent?

Mr NASSER: I actually went and got my own development consent in addition to the existing one.

The Hon. KAYEE GRIFFIN: Did you question the fact that there may have been an issue because the premises were in an area zoned for bulky goods?

Mr NASSER: Absolutely not. From my experience of just being on a local council, there is absolutely no question that the benefits that this provides to the local community are overwhelming, proven and documented, and actually unchallenged.

The Hon. KAYEE GRIFFIN: When did you sign your lease?

Mr NASSER: I am not the lessee, Gloria Jean's Coffees is the lessee.

The Hon. KAYEE GRIFFIN: Were you told that there would be an appeal, a court case?

Mr NASSER: I did not spend a cent until after I saw Craig Knowles cut that ribbon and heard his speech.

The Hon. KAYEE GRIFFIN: Do you know Mr Gazal personally?

Mr NASSER: No, I do not.

The Hon. KAYEE GRIFFIN: Were there any discussions by yourself with Mr Gazal or any of the other witnesses this morning before you came to give evidence?

Mr NASSER: No, there was not.

The Hon. KAYEE GRIFFIN: Or with any of his representatives?

Mr NASSER: No, there was not. This is typical of the shame that the Labor Party is perpetrating in this whole saga. Honestly, you would think that you would just let the people lose their jobs and the businesses go broke quietly, without this continuing torture. Really, shame is the only word that is applicable here.

The Hon. KAYEE GRIFFIN: Have you been approached by anyone in relation to employment for your employees?

Mr NASSER: Not to my knowledge.

The Hon. KAYEE GRIFFIN: Have your employees been approached?

Mr NASSER: My employees have been approached and offered jobs that were just laughable, actually.

The Hon. KAYEE GRIFFIN: Ms Hayek, did you send a petition to Minister Beamer in relation to this issue?

Ms HAYEK: Yes, I did.

The Hon. KAYEE GRIFFIN: Have you had any conversations with Minister Beamer?

Ms HAYEK: Yes, I have. I told Stephen, her assistant, that I did not want to talk to him, that I wanted to talk directly to her because she would not respond to us at all. We made a lot of response to the public, like, why does Diane Beamer not call us personally and tell us the reason why she did not sign the paperwork. Why is it she has such a grudge against us?

The Hon. KAYEE GRIFFIN: Have you spoken to Minister Beamer personally?

Ms HAYEK: Yes, I have, on the phone. As I said before, all she can say to me is that there is nothing she can do, that it is illegal. What is illegal about council approval? Why can she not save our jobs? Because Mr Bob Carr tells her not to!

The Hon. KAYEE GRIFFIN: Did you allow people to see your staff in relation to assisting them with other jobs?

Ms HAYEK: Nobody asked me can they come in and see my staff. My staff were not happy, no, because they are happy being where they are.

The Hon. KAYEE GRIFFIN: Did you know Mr Gazal personally?

Ms HAYEK: No, I do not.

The Hon. KAYEE GRIFFIN: Have you had any discussions with Mr Gazal or his associates before giving evidence today?

Ms HAYEK: No. What kind of a question is that? We are workers in the complex and he owns the complex. He has every right to fight for what he owns and we have every right to fight for our jobs.

The Hon. KAYEE GRIFFIN: When the lease was signed were you aware of an issue, of a case in the Land and Environment Court?

Ms HAYEK: I am sorry, I was not there when the lease was signed. That was the owners, my boss signed. I do not know anything about that. I am just the store manager.

The Hon. KAYEE GRIFFIN: If there was a disclosure on the lease, you would not know about that?

Ms HAYEK: No, I cannot answer that question.

The Hon. PETER PRIMROSE: I ask any others with a lease, is there a disclosure about the legal action on any of the leases that you have signed?

Mr BORWICK: There is no comment on the lease in reference to the legal action in the disclosure statement on the lease, on our lease.

The Hon. PETER PRIMROSE: Have you asked your solicitor why?

Mr BORWICK: We had a DA and signed a lease in early December. At that point there was no problem with our lease. Our solicitor has been doing our leases for five or six years, he is a leasing specialist, and at that time there was no problem with the lease. Can I comment also, as I said earlier I have spoken to other retailers who have received documentation, all were aware of the legal action by Westfield.

CHAIR: Do any of you want to make a further point? Has anything been missed out? If not, I thank each and every one of you for being here today. I know that coming before a parliamentary Committee is a rather unusual experience.

Mr NASSER: May I respectfully make one last comment. I ask that members of this Committee please go back and talk to all the relevant sides of politics to please try to come up with some kind of compromise that is better than the outcome of simply closing the centre and reopening in 12 months or so when they fill these tenancies with bulky goods. Somebody needs to do that. We have genuine stand-off of egos here, and the impact on the people in the middle is absolutely devastating. Someone needs to go forward with a compromise or some possible solution that does not leave the amount of devastation that is potential here. I implore you to please go back and consider that and talk to your relevant parties in relation to this matter.

Mr BORWICK: If Orange Grove is closed on 25 August, sometime in the near future there will be a factory outlet centre in the Liverpool area. So why close this one?

CHAIR: I thank each and every one of you. And I am sure that the Committee's report to the Parliament will be the richer for your input. I advise everyone that the Committee will visit the shopping centre during the lunch break from about 1.00 p.m.

(The witnesses withdrew)

(Luncheon adjournment)

ROBERT RICHMOND JORDAN, Chief Operating Officer, Westfield Australia and New Zealand, Level 21, 100 William Street, Sydney, and

NEIL INGHAM, Managing Director, Ingham Planning Pty Ltd, Suite 19, 303 Pacific Highway, Lindfield, sworn and examined:

CHAIR: I welcome our two witnesses. Mr Jordan, no doubt you are aware of the terms of reference of this inquiry.

Mr JORDAN: I am.

CHAIR: Mr Ingham, in what official capacity are you appearing before the Committee today?

Mr INGHAM: I am appearing as the managing director of Ingham Planning Pty Ltd, which is an adviser to Westfield in relation to this matter.

CHAIR: Gentlemen, I must advise you that if you should consider at any stage during your evidence that certain evidence of documents you may wish to present should be heard or seen in private by the Committee, the Committee will consider your request. However, the Committee or the Legislative Council itself may subsequently publish the evidence if they decide it is in the public interest to do so. Mr Jordan, would you like to make an opening statement to the inquiry?

Mr JORDAN: Yes.

CHAIR: You may proceed.

Mr JORDAN: The shopping centre industry has invested in shopping centres generally based in town centres and appropriately zoned retail centres in Australia. This investment is substantial. The Westfield Group alone has about \$11 billion in Australia. It is a necessary part of our system that zoning laws prescribe what uses of land are permitted, what uses are prohibited and what uses are permitted with consent. There can be no debate on the necessity for zoning laws. The forerunner to the existing zoning laws in New South Wales is the Local Government Town and Country Planning (Amendment) Act 1950. The purpose at the time was described by the then Minister for Local Government, when introducing the bill, in these words, "The need for adequate town and country planning machinery is now so insistent having regard to the need for the orderly regulation of post-war development and for the correction of the evils of the largely haphazard and uncontrolled development of our cities, towns and villages in the past that satisfaction of these needs are no longer be denied. The principles of town and country planning may be stated simply as an attempt to regulate in advance the orderly arrangement and use of land in town and country so as to promote for the greatest good of the greatest number the improvement of community life and of the environment in which our people live."

All State and Territory governments and the Australian Federal Government have committed themselves to a centres policy. The concentration of commercial and retail activities in centres has been the basis of New South Wales planning strategies for many decades. Successive Labor and Liberal governments have approved the strategy. In 2001 the New South Wales Government released a package of planning policies—integrating land use and transport, the right place for business and services, and draft State environmental planning policy 66—all intended to reinforce these planning strategies. The right place for business and services policy aims to encourage a network of vibrant, accessible mixed-use centres that are closely aligned with, and accessible by, public transport, walking and cycling. Responsive planning, consistent decision making and good design and management are needed to ensure that there are development opportunities in centres for businesses and services; community investment in infrastructure is protected; and investor confidence in centres is maintained. In newly developing areas major retail facilities will provide the focus for the development of future commercial centres. Access by public transport should be a key criteria in determination of centre location. Freestanding locations away from public transport will be strongly discouraged.

A major reason for the Government's support of centres policy is twofold: one, to economically provide public transport infrastructure to serve the city; and, two, to maintain a vital town centre to support this system and provide the necessary services to the community. There were eight major policies that constituted the proposed centres policy and formed a framework for local planning. The first three policies of the centres policy

established a hierarchy of centres within the Sydney CBD. North Sydney was promoted as the dominant regional centre and Parramatta was established as a secondary regional centre followed by a number of sub-regional centres nominated as the preferred locations for major commercial development. The sub-regional centres included Liverpool.

Policy 6 of the centres policy stated, "Major retail development will be encouraged to locate in regional, sub-regional and secondary centres. Major retail development of over 5,000 square metres of gross lettable area which require a rezoning or an increase in floor space ratios are normally to be restricted outside regional, sub-regional and secondary centres." The right place for business and services planning policy provides explanatory notes that include the heading, "Competition, Planning and Formats." It states, "Retailing and other commercial sectors operate in very competitive environments that benefit consumers and the economic efficiency of the region. By locating commercial development in centres within proximity of other businesses, facilities, comparison and direct competition, all consumers can benefit. A centre should not be commercially threatened by competition from a new retail proposal, however. Community facilities, including public infrastructure and shopping convenience, must not be placed in jeopardy by the new development."

The major Australian shopping centre operators, including Westfield, have made substantial investment in shopping centres on the basis that the planning principles inherent in the centres policy will be adhered to. There are over 120,000 shareholders in the Westfield Group, and these include major institutions that in turn represent the retirement funds of thousands of ordinary Australians. There are more than 6,500 retailers in Westfield centres in Australia, and these retailers make substantial investments in fit-out and in their businesses generally. All of this is placed at risk if the planning rules are ignored or arbitrarily changed. The Westfield Group has a \$2 billion forward development program in Australia, and again this is jeopardised if the planning rules are arbitrarily changed.

Westfield has publicly stated how it deals with governments. In this regard, I quote from an address that Westfield's Executive Chairman, Mr Frank Lowy, gave at a general meeting of shareholders held on 29 April 2002. He said, "I suggest that it is our corporate responsibility to be involved in the political process no less than individuals. The company has, on behalf of its shareholders, a legitimate interest in government decisions and the democratic right to communicate with lawmakers and officials. Property development is by its very nature a political business, but then most businesses are affected by government decisions. We happen to operate in one of the most highly regulated and controlled sections of the economy. Planning policy is just one area of critical importance to us. Shopping centre developments are undertaken on a long-term horizon—usually 20 years or more—and hundreds of millions of dollars are invested in each centre. It is vital that government planning policies are clear and do not alter substantially over time in a way that allows ad hoc development or irregular developments that are outside the accepted planning guidelines. When that happens we have a right and an obligation to our shareholders to fight such proposals." Mr Lowy went on to say, "We are obliged to make our position known to governments and other decision makers because it affects our staff, our retailers, our shoppers and ultimately you, our shareholders. Sometimes we make our views known by direct approach to the government."

In early 2003 Westfield became aware that an officer of the Liverpool City Council had approved an application on behalf of the owner of Gazcorp for a shopping centre at Orange Grove Road, Liverpool. On inquiry it was found that the application was lodged with council in June 2002 and approved by the council officer in November 2002. The application was lodged as an application for a change of use from existing bulky goods to warehouse clearance outlets. The application was not lodged for a new use nor as an application for a shopping centre. The zoning of the Orange Grove land clearly prohibits shops and clearly prohibited the council granting any consent for such use. The published policy of the New South Wales Government for many years was that land such as Orange Grove Road should not be used for shops. This policy was well known throughout New South Wales.

The owners and retailers of the shops in the Liverpool CBD were not notified of the application. This was so despite the potential impact on them of a new shopping centre two kilometres away and the zoning prohibiting the use as shops. The application was not the subject of any public debate or discussion. The only public notification of the application that we are aware of appeared on page 33 of the *Liverpool City Champion*, published on 30 October 2003. Even this notification was left to the last moment. This was described by council as an "oversight". The advertisement was published only two weeks before approval. Five days before the advertisement the owner had obtained a draft of the approval. The actual approval was given by the council

officer one day after the period for objection under the advertisement closed. The approval was given by a council officer not by a committee of council nor the full council.

After our investigations Westfield had grave concerns with the approval process. Following the completion of our inquiry, Westfield wrote in June 2003 to the Liverpool City Council and the owner of the premises, Gazcorp, requesting that they not rely upon the approval issued by council officers. The response was that council and Gazcorp did not agree to that request. Westfield then had to commence legal proceedings to strike down the application, and sought an urgent hearing of the matter. Gazcorp opposed the urgent hearing. Despite the legal proceedings, Gazcorp continued with building work. Despite the legal proceedings, Gazcorp continued to lease the premises to retailers. The Liverpool City Council began a process to have the land rezoned for shops. Westfield and others in the Liverpool CBD were only notified of this through the legal proceedings. Gazcorp completed the building in November 2003.

Gazcorp had Mr Knowles, Minister for the Environment, opening the shopping centre in 2003. From what Mr Knowles publicly said it appears Gazcorp did not notify Mr Knowles of legal proceedings. In January 2004 the Land and Environment Court struck down the approval and declared the use as illegal. This was confirmed unanimously by the Court of Appeal in March 2004 when the Court of Appeal pointed out the nonsense of the claim by Gazcorp. It is important now that you hear from Mr Neil Ingham, a pre-eminent town planner so that he may give you his opinion of the planning issues involved with Orange Grove Road and we will then be available for some questions.

Mr INGHAM: I want to talk first of all about the permissibility of the use which was approved. The permissibility of uses within the Liverpool City Council area is controlled by Liverpool local environmental plan [LEP] 1997 and amendments to that plan. Within the LEP, clause 9 defines which uses are permissible without consent, which uses are permissible with consent and which uses are prohibited within each of the zones of the LEP. Within the industrial 4(b) zone bulky goods salesrooms and showrooms are permissible subject to consent—warehouses are. Restaurants and shops are not permissible uses. Within any environmental planning instrument—LEP or other type of instrument—there is absolutely no point or benefit in looking for some use to be innominate if it falls within the definition of a use found within the LEP. Clause 6 of the LEP sets out the definitions of the uses found within clause 9. The definition of "bulky goods salesrooms and showrooms" is set out in clause 9. The definition of "restaurant" is as follows.

Restaurant means a building or place, the principal purpose of which is the provision of food to people for consumption on the premises or to provide take-away meals.

It is quite clear that the purported approved use of the site does not fall within either bulky goods salesrooms and showrooms or within the definition of "restaurant". The definition of "shop", nevertheless, within the LEP is as follows.

Shop means a building or place used for selling items, whether by retail or auction, or for hiring or displaying items for the purpose of selling or hiring them (whether the items are goods or materials).

It is apparent that the goods being sold on the premises are being sold by retail. There is no ground upon which it might be suggested that the proposed use is some undefined innominate use when it falls squarely within the definition of "shops". This matter is further expanded upon in part 8 of the LEP dealing with industrial zones. Within the industrial 4(b) zone the following are said to be the objectives of the zone. I take the committee particularly to the objectives in clause clauses 50(2):

- (d) to permit retail development only where
 - (i) it is ancillary to and associated with an industrial use of the land in the zone, or

that is clearly not this—

- (ii) it services the daily convenience needs of the local workforce, or

that is clearly not this—

- (iii) it is for the purpose of bulky goods retailing, or

that is clearly not this—

- (iv) it is a motor vehicle oriented land use,

that is clearly not this—

and only if it does not have an adverse impact on the viability of the business areas of Liverpool, and

Those things are additive; they are not separate one from the other. The "and" adds to the first four of those requirements, none of which are satisfied. It would appear perfectly clear from clause 50(2)(d) that retail uses are not permitted unless they comply with the provisions of the clause. In terms of retail outlets which sell clothing they would only be permitted if they were ancillary to and associated with an industrial use of the land in the zone. So, if someone manufactures clothing they could sell things they manufactured from the premises—that is not this. This would require the manufacture of the clothing items within the industrial use and the sale of those items from the factory premises. Alternatively, some items of clothing might be able to be sold if they serve the daily convenience needs of the local work force. It would be difficult to conceive of the uses on the subject Orange Grove Road premises being required to service the daily convenience needs of the local work force. I cannot therefore understand how it could have been suggested that the uses which have been purported to be approved on the site could have been approved under the Liverpool LEP 1997.

I now want to look a public policy relating to this kind of use and retailing generally. Since at least 1985 public policy has existed to control the location of significant retailing to major centres. In a publication entitled "A Centre's Policy for the Sydney Region" prepared by the department of environmental planning in July 1985, the following comment is made relating to why a centre's policy is needed:

Although the dominance of private transport has meant that high accessibility is not restricted to centres, centres still provide the vital focus for services and transport facilities: While there may often be savings for an individual employer to locate outside a centre, for the community as a whole, there are still considerable benefits from concentrating many retail, commercial and community services in centres. This is especially true for people who do not have easy access to private transport. The young, old, poor, disabled and one car families are all prime beneficiaries of a strong centres policy.

A centres policy is extremely important to the future of the public transport system, concentration of jobs and services in centres facilitates both present and future public transport servicing.

Further on in the same section the following comment is made:

It is this difference between community benefits and individual benefits which is at the heart of most planning policies, and this is especially true for a centres policy.

The policy points out that the concept of encouraging the development of centres has been a longstanding Sydney metropolitan planning principle. The County of Cumberland Planning Scheme in 1951 attempted to limit growth in the CBD and to promote strong district centres. This was continued in the Sydney Region Outline Plan of 1968 which was a plan to cope with the expansion of Sydney. Liverpool was one of the centres identified in the County of Cumberland Planning Scheme and also in the Sydney Region Outline Plan. It has, in fact, been consistently identified as one of the major centres of the Sydney metropolitan area since 1951.

The most recent public policy to emerge in relation to centres relates to the documents entitled "Integrating Land Use and Transport" and to the publication of draft State Environmental Planning Policy 66—Integration of Land Use and Transport. This policy has a number of documents which form part of the policy and provide background information to the policy. Parts of these documents and others relating to the centres policy have been attached to a document which I will provide shortly. In 1992 the Premier of New South Wales made a statement relating to a vision for the future of metropolitan Sydney. He said the following:

One of the major problems in Sydney's urban development has been the lack of adequate co-ordination between transport and land use planning. This has contributed to urban sprawl, a heavy reliance on private transport and, consequently, increased levels of air pollution.

As the document entitled "Improving Transport Choice" that is associated with the integration of land use and planning documents, part of the integrating land use and transport package, states in relation to retail location:

Retailing forms the foundation of most centres and ensures their continued viability and vitality. It is also one of the main generators of travel. It is crucial to have well located retail areas.

- retail functions should be ideally located in a network of attractive and vibrant, mixed use centres of all sizes and functions, and closely aligned with the public transport system. A vibrant centre protects and maximises the use of community investment, encourages continued private and public investment in the centre, and fosters growth, competition, innovation and further investment confidence.
- dispersed, isolated retail locations should be avoided because they are car dependent and incur significant community and environmental costs.
- retail format alone (eg. bulky goods, big box) should not be a justification for an isolated location.
- integration of retail functions encourages single multi-purpose trips, particularly when pedestrians can move freely within a centre.

These comments and extracts from other policy documents make it abundantly clear that the centre which exists at Orange Grove Road is not consistent with the policy or, indeed, other government policy since 1951. There is a public purpose in ensuring that facilities such as presently exist at Orange Grove Road are located in centres as this will be of benefit to the total community, as opposed to a segment of the community. It will ensure that people do not undertake trips which are unnecessary or lengthy and will minimise the car emission of greenhouse gases and the ability of all members of the community to access the goods being sold. If this public policy objective is overridden at Orange Grove Road then there is no reason why it would or should not be overridden elsewhere, with the public policy simply falling to the ground to the disbenefit to the community at large.

Finally, I want to talk about the timing of actions relating to this development. The use of the site was purportedly approved on the 15 November 2002. In April 2003 the development consent was notified under section 101 of the Environmental Planning and Assessment Act 1979. On 17 June 2003 Westfield Management Limited and Kent Street Pty Limited commenced proceedings in the Land and Environment Court to challenge the development consent for the proposed use at 12 Orange Grove Road, Warwick Farm. On 24 November 2003 Liverpool council issued an Interim Occupation Certificate for the development. It was therefore some five months after the owners of site were aware of a legal issue relating to the consent that any occupation of the premises was possible. Any party wishing to occupy the premises could have been made aware of the legal challenge to the consent well prior to occupation to ensure that they were not disadvantaged by the results of the challenge.

The decision of Liverpool City Council to prepare a draft local environmental plan occurred on the 12 December 2003, this draft LEP being intended to allow approval of the use which had previously been unlawfully approved. The hearing before the Land and Environment Court occurred on 18 and 19 December 2003 and the judgment was handed down on the 16 January 2004. An appeal relating to the judgment was filed on the 28 January 2004 and was heard before the Court of Appeal on the 3 March 2004. The Court of Appeal handed down its judgment relating to the matter on the 31 March 2004. On 22 March 2004 I wrote to Gabriel Kibble, Administrator of Liverpool City Council setting out the reasons why I believed the draft local environmental plan to change the permissible uses on the site and allow the unlawful use which had taken place to continue was inconsistent with the longstanding centre's policy of the Government as contained in draft SEPP 66, and the integrated land use and planning documents, but is also incapable of being implemented in any meaningful way.

The definition of "outlets centre" which requires the majority of stock being offered for sale "below normal retail prices and/or be surplus, out of season, seconds or samples" is simply not possible for any authority to determine prior to the use being operational. How does any authority determine that the goods being offered are going to be below normal retail prices and/or be surplus, out of season, and so on? It simply cannot be done.

Allowing a development to continue which is inconsistent and contrary to expressed and longstanding government policy—that is, government policy of both political parties—is not a logical outcome. It is not in the interests of the community as a whole and does not accord with longstanding and relevant planning practice.

In conclusion, it is my opinion that Diane Beamer, the assistant planning Minister, has undertaken her responsibilities appropriately in refusing to make the plan requested by Liverpool City Council. To do otherwise

would be inconsistent with, and prejudice, the implementation of longstanding planning policy, and would be inappropriate.

The Hon. JOHN RYAN: Mr Jordan, on 22 July Westfield issued a press release saying the following: "Westfield made its opposition to Orange Grove Road clear in submissions to Liverpool Council, the Department of Infrastructure, Planning and Natural Resources, and Planning Minister Craig Knowles, but did not meet with Diane Beamer and made no submission to her." I note that the speech from Mr Lowy from which you quoted at the recent annual general meeting said with regard to Westfield, "We talk with oppositions as well as government. We communicate our views in an open and fact-based manner." In view of that policy, what representations did you make to government, on what days, and to whom?

Mr JORDAN: I am quite happy to give you a full list of what representations we have made. We made representations at local government level, State Government level, and to the Opposition. We made written submissions, as well as seeing people and making submissions to them verbally. If you like, I will give you a full list of those and the dates.

The Hon. JOHN RYAN: Did you bring them with you?

Mr JORDAN: No, I did not.

The Hon. JOHN RYAN: Did you speak to Mr Knowles?

Mr JORDAN: Yes, we did.

The Hon. JOHN RYAN: Can you tell us when, and what was discussed?

Mr JORDAN: We saw Mr Knowles, I believe, on 17 November. We had a number of issues that we talked to Mr Knowles about, and it was on a number of general matters. Generally, it included SEPP 66, and other issues that came with that. With regard to SEPP 66, we discussed Orange Grove Road with him and told him that there were legal proceedings on foot. It included a number of other matters that we had into the planning policy in New South Wales at the time.

The Hon. JOHN RYAN: SEPP 66 is incredibly germane to Orange Grove Road, is it not?

Mr JORDAN: SEPP 66 and Orange Grove Road are linked, yes.

The Hon. JOHN RYAN: It would have been possible to discuss SEPP 66 and not Orange Grove Road at that time, would it not?

Mr JORDAN: I believe so.

The Hon. JOHN RYAN: What did you say to Mr Knowles?

Mr JORDAN: We again showed our support for the principles—

The Hon. JOHN RYAN: Were you present at the meeting with Mr Knowles?

Mr JORDAN: I was.

The Hon. JOHN RYAN: So you are giving a first-hand report on it?

Mr JORDAN: I am. We told him about our support for SEPP 66 and the reasons for that. We discussed the issues we had, that it was a draft SEPP and it had not been gazetted and implemented fully yet. We discussed the implications of Orange Grove Road on SEPP 66 and how that could undermine the principles of the centre's policy. That was generally the conversation.

The Hon. JOHN RYAN: What did you say to Mr Knowles with regard to his attendance in a couple of days time at the opening of the factory outlets centre?

Mr JORDAN: We told Mr Knowles that we had legal proceedings against Orange Grove Road and what our issue was with that. Mr Knowles is all will I said that you told us that he was opening the next stage of the Orange Grove Road, and he said the reason for that was that he opened the first stage.

The Hon. JOHN RYAN: Did Mr Knowles indicate to you that he already knew about the legal proceedings when you told him?

Mr JORDAN: He did not indicate that. However, it subsequently appeared that that was the first indication he had of it.

The Hon. JOHN RYAN: Did you meet with any other Minister with regard to SEPP 66 or Orange Grove Road during the relevant period of time?

Mr JORDAN: No other Minister.

The Hon. JOHN RYAN: Did any representative of Westfield meet with the Premier?

Mr JORDAN: No, they did not.

The Hon. JOHN RYAN: Did you make written submissions to the Premier?

Mr JORDAN: No, we did not.

The Hon. JOHN RYAN: Did you prepare to have a meeting with the Premier and not go ahead with it?

Mr JORDAN: No, we did not.

The Hon. JOHN RYAN: Did you meet with the Premier about any issue of government from, say, the time you launched your challenge until March 2004?

Mr JORDAN: No.

The Hon. JOHN RYAN: Not at all?

Mr JORDAN: I do not believe so.

The Hon. JOHN RYAN: Can you tell the Committee who Kent Street Pty Ltd is and who it represents?

Mr JORDAN: Kent Street Pty Ltd is one of the owners of the shopping centre?

The Hon. JOHN RYAN: Which shopping centre?

Mr JORDAN: Liverpool shopping centre.

The Hon. JOHN RYAN: Does Westfield have any partnership with the developers of a proposed factory outlet at the Cross Roads at Liverpool?

Mr JORDAN: On my understanding, Cross Roads is owned by AMP—which particular arm of AMP, I am not sure—and AMP is a part owner of Westfield Liverpool.

The Hon. JOHN RYAN: Is it not somewhat hypocritical for Westfield at Liverpool to be making representations in the court about the potential impact of a factory outlet in Orange Grove Road when it is busily putting submissions to the Government in support of a proposal that is not only very similar but in fact twice its size, and even further away from the CBD and Orange Grove Road use question mark

Mr JORDAN: I think your facts are incorrect. The owners of Westfield Liverpool have made submissions on the Cross Roads site.

The Hon. JOHN RYAN: They have made submissions which have referred to the Cross Roads site, but I do not recall that they have actually made submissions against it.

Mr JORDAN: I am sure our submissions would not be for it.

The Hon. JOHN RYAN: No, they are not, but they make reference to it. Largely, the reference, as I read it, is that it is a factor to be considered in considering the Orange Grove Road site—not that it is not to be supported. In any event, it seems commonsense that the capacity of Westfield to wipe out any consideration of a factory outlet site operating contrary to SEPP 66 comes by simply having a conversation with your partners, who are doing exactly that, in twice its measure, down the road.

Mr JORDAN: I am sorry, could you repeat the question?

The Hon. JOHN RYAN: If you are in partnership with the developers of a factory outlet at the Cross Roads, why would you not be telling your partners that you see that particular development as counterproductive to what you have in Liverpool?

Mr JORDAN: I think we have expressed that view. You must understand, too, that AMP is a very big organisation. They have a number of different funds, those funds are run under different auspices, and they are run by different people. The particular ownership of the Cross Roads site, on my understanding, is that it is an industrial fund, and the fund that owns the shopping centre is a separate fund.

The Hon. JOHN RYAN: I accept the Chinese walls, but you would have to say that you have more direct access to those walls than most people would.

Mr JORDAN: We still expressed our view. It does not mean that they need to take action on both. We have expressed our views.

The Hon. JOHN RYAN: You can see that to many it seems to be a problem. But the organisation that believes that it is going to be most severely affected, that is Liverpool Westfield shopping centre, is proposing to do the very thing that Westfield is objecting to at Orange Grove Road.

Mr JORDAN: That is incorrect. Westfield Liverpool is owned by different people from those who own Cross Roads, and Westfield has no connection with the Cross Roads development whatsoever.

The Hon. JOHN RYAN: But you said that Kent Street Pty Ltd is a partner in the ownership of the shopping complex.

Mr JORDAN: That is right.

The Hon. JOHN RYAN: Why would they not see it as against—?

Mr JORDAN: As I said, they are owned by different funds that have different objectives for their unit holders, and obviously one fund has sought that that is appropriate action for them, whereas the fund that actually owns the shopping centre site obviously does not. That is not unusual in those circumstances.

The Hon. JOHN RYAN: It does undermine an argument that the factory outlet at Orange Grove Road is going to adversely affect Westfield and the Liverpool shopping town, when it appears that one of the partners of the very same fund is building down the road a complex that is twice the size—

Mr JORDAN: No, I do not think it does.

The Hon. JOHN RYAN: Does Westfield collect trading figures from its tenants at Liverpool?

Mr JORDAN: Yes, it does.

The Hon. JOHN RYAN: What has been the result of trading at Westfield during the months in which the factory outlet has been opened? Has trade at Westfield increased, stayed the same, or declined?

Mr JORDAN: Obviously those numbers are confidential. However, I can give you a feel for them. Westfield Liverpool is approximately 5 per cent below the national average at the moment. More particularly, the categories that are affected by the Orange Grove Road development, namely fashion and footwear—for example, footwear, which was growing at 5 per cent prior to the Orange Grove Road development, is now in a negative situation of 8 per cent and is approximately 8 per cent below the national average. That means that the loss of trade is increasing and that that trend has not stopped as yet. Prior to the development, fashion was trading at approximately the national average. It is now 5 per cent below the national average as at May, and that gap is increasing.

The Hon. JOHN RYAN: When you say below the national average, is it not the case that the national average is nevertheless an increasing trend? So what you are saying is that it has not been increasing at the same level as the increase that has been experienced throughout the country, is that correct?

Mr JORDAN: That is right. However, I did state that in the case of footwear the national average is stable, that is, there is no growth and no loss for the month of May, and Liverpool is actually losing at the rate of 8 per cent.

The Hon. JOHN RYAN: What about the other months?

Mr JORDAN: As I have said, it has been a gradual curve from November, when footwear was 5 per cent above and it was roughly on the national average, to a point where it is now 8 per cent below. What I am saying is that in footwear, it has changed from being at the national average to 8 per cent below and it is continuing to decline.

The Hon. JOHN RYAN: With regard to apparel, though, what you are saying is that your apparel sales at Westfield are nevertheless increasing but not at the same rate as occurs in other places, is that right?

Mr JORDAN: Apparel is flat at the moment, and slightly decreasing, and the national average is up at approximately 5 per cent, and therefore we have at 5 per cent gap.

The Hon. JOHN RYAN: Without giving us comparisons of national averages and so on, has there been a decline or increase in trading at the Liverpool Westfield since the factory outlets opened?

Mr JORDAN: There has been a decline.

The Hon. JOHN RYAN: Of what level?

Mr JORDAN: Approximately 5 per cent.

The Hon. JOHN RYAN: For the whole centre, or just apparel?

Mr JORDAN: For the whole centre, it is about 5 per cent.

The Hon. JOHN RYAN: Does that mean you are going to scrap your proposal to increase the size of Westfield?

Mr JORDAN: No, it does not. But it means we may have to change how we go about it.

The Hon. JOHN RYAN: How so?

Mr JORDAN: We will have to look at the tenancy mix we have. We will have to look at the outcome. Obviously the court case has ruled that the out let centre should close, and we have to look at whether that will have an effect on the trade and where we sit with the expansion.

The Hon. JOHN RYAN: What is the value in dollar terms in the reduction of trade?

Mr JORDAN: At this point in time over the past six months it is a little hard to adjust but it could be anywhere between a high of about \$7 million to approximately \$1 million or \$2 million over that small period of time.

The Hon. JOHN RYAN: Would you blame the factory outlet for all of that decrease?

Mr JORDAN: Yes.

The Hon. JOHN RYAN: Is it not possible that people in Liverpool are going to other factory outlets? If the factory outlet at Orange Grove does not go ahead or is closed, is it not a fact that people who live in this area will go to other factory outlets outside Liverpool?

Mr JORDAN: I make that statement because it can be clearly seen from our trade figures that that effect I have said to you is from that date in November to the date of May. The only exterior force in hand at that time was the factory outlet opening.

The Hon. JOHN RYAN: I put it to you that it has been brought to the Committee that even if the factory outlet closes the people of Liverpool will nevertheless shop in factory outlets outside Liverpool. There is some advantage in keeping factory outlet-style trading, which appears to be a recognisable new form of retail format, within Liverpool instead of having people go to Homebush or to other factory outlets like the one at Mount Druiitt and so on.

Mr JORDAN: I think it is fair to say in November those facilities were already opened and the people had the chance to do that. As I said, in November the only thing that actually changed was the opening of the factory outlet here, and that is a very good indication of the effect that that has had on the Westfield centre.

The Hon. JOHN RYAN: Have there been job losses as a result of that decline in trade?

Mr JORDAN: I cannot say to you the exact number of job losses. What I can tell you though is the occupancy cost of the retailers in those two categories have increased to a substantial amount, that we have some fears with some traders on their trading viability, and I think Milton Cockburn from the Shopping Centre Council gave you anecdotal evidence of that.

The Hon. JOHN RYAN: It is anecdotal evidence, though; it is not exactly scientific.

Mr JORDAN: I suppose we could go through that again but I know Milton Cockburn has sworn on oath that the figures he gave you were correct.

The Hon. JOHN RYAN: That does not make it any different than anecdotal, though, does it?

Mr JORDAN: It is up to you whether you want to accept it or not.

The Hon. JOHN RYAN: I am happy to accept it but I have to accept it with the caveat that it is anecdotal and anonymous. With regard to public transport, which seems to be an objection that Westfield has to the Orange Grove centre, are you aware of the fact that all public transport, with the exception of the railway, in Liverpool is private transport and therefore tends to follow development rather than be in front of it? It is not unusual that there would not be a fully developed public transport system to an area within a kilometre or so away from the town centre, simply because unlike the inner city the Government does not provide the public transport; it is provided when it is seen to be viable.

Mr JORDAN: My understanding is that the railways in New South Wales are public and getting the railways to go to Orange Grove Road would be a very expensive exercise. The other option is buses, and my understanding is that the buses intermittently operate at Orange Grove Road and there are very few services there on weekends and virtually none on a Sunday.

The Hon. JOHN RYAN: That is the point, though, that public transport in the form of buses could expand if there was a demand for them. In terms of where buses go in Liverpool, it is something that will be flexible in that if there is a destination to which people want to travel private public transport operators would be only too happy to provide the transport required. Additionally, it was always possible that Mr Gazal, as part of his development consent, could have been obliged to provide public transport links between Liverpool railway station and his shopping complex, could he not?

Mr JORDAN: He was not.

The Hon. JOHN RYAN: No, he could have.

Mr JORDAN: It might have been possible. He was not. It does not seem to have occurred. The centre has now been open for nine months or eight months. My understanding is that the services that are there today are very similar to what was there at the opening in November and there are very few services in the weekend period.

Ms SYLVIA HALE: Mr Jordan, if Mr Gazal were now to turn around and offer to provide bus services on weekends would that be sufficient for Westfield to consider that the centre would not have the inappropriate environmental impact it has without public transport being provided?

Mr JORDAN: No, I do not believe so. I think the bus services that could be provided to Orange Grove Road would be minor in terms of where they would be coming from. They could not service the whole Liverpool area for an economic reason. I do not believe that is possible, and I believe economically it would be impossible to get the train services there.

Ms SYLVIA HALE: In your experience with these bulky goods outlets, is it not a fact that most of them are catered to by private transport rather than by public transport?

Mr JORDAN: No, that is not quite correct. There are direct factory outlets in Mount Druitt in a retail zoning in which case they are serviced by public transport. There is also one starting in the ex David Jones building in Parramatta which is run by Brand Smart. Again, it is virtually in the retail area there and it is serviced by public transport. It is not certainly the case in a number of them.

Ms SYLVIA HALE: Does Westfield have a consistent policy of objecting to direct factory outlets where they are proposed or where they have been established?

Mr JORDAN: Generally, yes.

Ms SYLVIA HALE: Because they are seen to be what—competitors?

Mr JORDAN: No. Our policy is generally if we believe a direct factory outlet is no more than a shopping centre, if that shopping centre is proposed to be on inappropriately zoned land, as I have stated previously, we believe that we have a duty on behalf of our investors and our retailers to fight it.

Ms SYLVIA HALE: You said in your opening remarks that you felt, and you quoted from your chairman saying, that Westfield had the right that any other citizen had to approach government to make representations on its behalf. Would you agree that Westfield's donation of substantial sums of money to political parties gives it considerably more clout than the normal citizen might have?

Mr JORDAN: No, not necessarily.

Ms SYLVIA HALE: So you say that Westfield's donations between 1998 and 2002 of about \$800,000 to the ALP at both the State and Federal levels, you say that people should not put any bad or ulterior construction on that?

Mr JORDAN: Westfield has a policy of supporting both major political parties. Its policy is based on having a strong political environment. To evidence what I have just said, we have had a number of policies that have gone against us, particularly in the case of retail tenancies, for instance. It has been a longstanding issue with the tenants and there have been a number of policies implemented that are not within our interests.

Ms SYLVIA HALE: So you would think that the political process is in no way undermined or corrupted by a policy on the part of large corporations of donating substantial sums of money?

Mr JORDAN: Not necessarily, depending on how they do it and how they go about it, and I believe in the case of Westfield no it does not.

Ms SYLVIA HALE: Can I quote to you a rhetorical question that was asked on Friday at this inquiry, because I suspect that this question summarises the perceptions of many members of the community about the influence of political donations? The question was: "Is it a fair practice to accept a political donation from Westfield or any other big company of approximately \$250,000 from a donor in return for a favour to destroy the livelihoods of 450 people, to send 60 businesses to the wall and create the potential cost to the ratepayers of Western Sydney of \$80 million in damages?" How do you respond to that question?

Mr JORDAN: That is purely a rhetorical question and it has no resemblance to the facts in this case.

Ms SYLVIA HALE: You would agree that in fact there are a number of livelihoods that are at stake?

Mr JORDAN: This is not a rhetorical question?

Ms SYLVIA HALE: I am asking you. Do you concede that many people in this community who are working in the centre now face the prospect of losing their jobs?

Mr JORDAN: Yes, and that is of concern to us and we are not happy about that. However, there was a situation in which consent was given which was illegal. The owner of the property, knowing that, continued to build on the site and continued to lease the site, and I think it is very unfortunate circumstances that have arisen.

Ms SYLVIA HALE: What I am concerned about are both the facts but also the perceptions created in the public mind. Do you agree that 450 people seem to be about to lose their jobs, there will be 60 businesses going to the wall and Liverpool council may face a damages claim of somewhere in the vicinity of \$80 million? I believe there is a perception that Westfield's very generous donations to the Labour Party may have been a factor in bringing about that outcome.

Mr JORDAN: People's perceptions are what they are. However, the facts are that that is not the case in these circumstances. What people think and what is the truth are two different things. I cannot tell you what the perception is; I can only sit here and tell you what the facts of the matter are.

Ms SYLVIA HALE: If that perception is out there—and I think we would both agree that there is that perception—do you not think it would be in the community's long-term interest for Westfield to desist from its policy of major donations to political parties?

Mr JORDAN: No, I do not believe so because the fact is that we give money to both major political parties and the reason we do that is that we believe in a strong political system in Australia, and I think that is something that is of benefit to the community and not the other.

Ms SYLVIA HALE: So you do not think that it can be seen by the public as giving to both political parties so that you make sure that your interests are preserved, no matter who is in government, and that the outcomes will be outcomes that will benefit the corporation?

Mr JORDAN: What people's perceptions are, my chairman has stated publicly what our policy is on that matter and I think that is all we can do. We believe what we are doing is correct and therefore we are continuing it.

Ms SYLVIA HALE: You do not agree, therefore, that there would be a greater public benefit from desisting from the giving of political donations.

Mr JORDAN: No, I do not. It would be a greater public benefit—I suppose the best public benefit would be if we explain ourselves maybe once again. I think that is what I am doing here today and that we do still make those contributions.

Ms SYLVIA HALE: In answer to some of the questions asked by the Hon. John Ryan, you said that Craig Knowles was the only Minister with whom you met.

Mr JORDAN: Yes.

Ms SYLVIA HALE: Did you have telephone conversations with any Ministers?

Mr JORDAN: No.

Ms SYLVIA HALE: No telephone conversations. So you are saying there were no telephone conversations and no meetings with the Premier between April 2003 and March 2004, is that correct?

Mr JORDAN: With the Premier, that is correct.

Ms SYLVIA HALE: And with any other Ministers?

Mr JORDAN: No.

Ms SYLVIA HALE: So the only person—

Mr JORDAN: We made written submissions to Beamer. We requested a meeting with Beamer but we did not get one.

The Hon. DAVID OLDFIELD: Mr Ingham, can you tell me what sort of financial arrangements you have with Westfield? Are you on a retainer, for example?

Mr INGHAM: I am not on a retainer, no. The firm acts for Westfield. If we are requested to do so and if we can support what Westfield is doing, we will act for it on the basis that we act for any other party.

The Hon. DAVID OLDFIELD: As you would be acting for them in a paid capacity today.

Mr INGHAM: Yes.

The Hon. DAVID OLDFIELD: Mr Jordan, when did Westfield discover that the department of planning was planning to recommend to Minister Beamer that the amendment be approved and that Orange Grove therefore be allowed to continue operation?

Mr JORDAN: We only discovered that some time after. The circumstances surrounding the refusal or acceptance of the section 69, we did not discover until after the fact.

The Hon. DAVID OLDFIELD: After which fact?

Mr JORDAN: After the refusal. We did not know what the department was saying in terms of its recommendation to Beamer.

The Hon. DAVID OLDFIELD: Until, say, July this year then? You did not know anything prior to that at Westfield?

Mr JORDAN: No.

The Hon. DAVID OLDFIELD: When Mr Knowles was with you—and I gather on 17 November last year and three or four days later, maybe the 21, he opened the centre—he obviously became aware of the legal action and the meeting with you?

Mr JORDAN: Yes.

The Hon. DAVID OLDFIELD: What was your reaction to him then opening the centre in a few days time?

Mr JORDAN: There was no reaction from us at all. He explained the circumstances in which he was doing that and that was accepted by us.

The Hon. DAVID OLDFIELD: When you say that there has been a 5 per cent loss of turnover, specifically you are speaking of footwear in particular at Westfield at Liverpool since November or March?

Mr JORDAN: Since November there has been a decrease in growth in footwear from plus 5 per cent in November; it is now negative 8 per cent. The national average in May was around about zero, so it is a loss of about 8 per cent against the national average for that category.

The Hon. DAVID OLDFIELD: Where are the other locations in New South Wales where there is a factory outlet not far away from Westfield?

Mr JORDAN: There is one Homebush. I am only guessing that it is probably about seven or eight kilometres from the Burwood and Parramatta centres. There is a factory outlet at Mount Druitt in the retail centre, which would be probably about 700 metres away. At Parramatta there is one in the retail centre, which is just starting up called Brandsmart and at Tuggerah there is one across the road from us.

The Hon. DAVID OLDFIELD: Is there a similar effect taking place with regards to drop in trade of different stores of Westfield as well?

Mr JORDAN: I could not tell you exactly but I am happy to provide that information to you, if you would like. The drop in trade, when the Homebush centre actually opened, there was a significant drop in trade in both Burwood and Parramatta. I have not seen the figures for Parramatta yet as it has only just opened, so, yes, there are drops in trade generally.

The Hon. DAVID OLDFIELD: These factory outlets are quite dangerous to Westfield in that sense, are they?

Mr JORDAN: I do not know if I would describe them as dangerous. I think they are inappropriate when they are put in industrial land. If they are put in retail centres, then they are part of a retail centre; they are possible to locate in a retail centre and they actually add to what is already there in the retail centre. It may affect us in some way or another, but that is part of the process that we would expect.

The Hon. DAVID OLDFIELD: Has Westfield been reasonably successful in getting land zoning changed for their own developments?

Mr JORDAN: I think you would have to look at what time frame you are talking about. In the reason five years I cannot recall having a rezoning of land for any of our centres. In the last 10 years I do not recall either seeing a rezoning.

The Hon. DAVID OLDFIELD: I am not sure how far back the centres might go, but it has been suggested to me that you have a centre in Hornsby.

Mr JORDAN: Yes, we do.

The Hon. DAVID OLDFIELD: And the land that that centre was on was originally zoned residential?

Mr JORDAN: It must have been a very long time because at Hornsby, before we did the last redevelopment, they were two existing retail centres that we actually demolished or partly demolished to rebuild the new centre.

The Hon. DAVID OLDFIELD: I understand. What about East Gardens? It was essentially a bus depot and industrial?

Mr JORDAN: Yes, and again that is some time. I have been with the company 17 years and it was prior to my time.

The Hon. DAVID OLDFIELD: And Liverpool was a Catholic school and residential?

Mr JORDAN: I did read about that in the paper the other day. I think that was in about the 1970s, so it has not been in recent times. In the case of Liverpool, I would think that was probably something you would expect in that it was part of the adjoining retail area and was part of the natural ebb and flow and growth of that retail centre.

The Hon. DAVID OLDFIELD: I know that you have been asked whether Westfield had met with any Government Minister or the Premier in the period from late last year up until March this year about this matter. Has anyone from Westfield, yourself or anyone, met with any Minister or the Premier on this matter since March until when Beamer refused the application?

Mr JORDAN: Nobody from Westfield has recently met with the Premier on this matter.

The Hon. DAVID OLDFIELD: Have you ever met with the Premier on this matter?

Mr JORDAN: I have not.

The Hon. DAVID OLDFIELD: So no-one from Westfield has at any stage met with the Premier on this matter and no-one from Westfield has met with the Premier recently on any matter?

Mr JORDAN: Not that I am aware of.

The Hon. DAVID OLDFIELD: Does Mr Lowy meet with the Premier independently of you or what might be seen as independently of Westfield?

Mr JORDAN: He could possibly do.

The Hon. DAVID OLDFIELD: Are you aware of any such meetings?

Mr JORDAN: I am not.

The Hon. DAVID OLDFIELD: Recently?

Mr JORDAN: No, I am not.

The Hon. DAVID OLDFIELD: Are you aware of any such meetings that may have included discussions about this topic in the last three or four months?

Mr JORDAN: I have made inquiries of Mr Lowy and Mr Lowy has affirmed that he has not discussed the matter with the Premier.

The Hon. KAYEE GRIFFIN: Mr Jordan, I am sorry to be going over part of what you said in your original submission today, but when the project was advertised in 2002 by council, Westfield did not lodge any objections to it. I think you did mention this in your original submission, but can you go over the reasons why there were no objections lodged when the original application was advertised?

Mr JORDAN: Our understanding was that the only advertisement that we are aware of was on page 33 of the local Liverpool paper. Having seen that advertisement, it was a very small section on page 33, which is in the back pages of the paper and it was for a change of use, which in the circumstances was a little bit unusual in that we would have expected that it would be something in the order of either a new DA process for a shopping centre or a new DA for a direct factory outlet. Having said that, we missed it and we did not see that.

The Hon. KAYEE GRIFFIN: In your original submission Mr Ingham went through the process of why you are concerned about the application. Do you have any other comments that you want to make about the approval process that this development?

Mr JORDAN: We found the approval process, as I outlined in my statement, to be quite unusual and we were quite concerned about it. As I said in our statement, there were a number of issues that we would not find in the usual course of our business and that gave us cause for grave concern. That has been highlighted in the court case and by ourselves.

The Hon. KAYEE GRIFFIN: The advertisement on page 33 of the local newspaper presumably passed most people by because they were not looking on that page for advertising. When did you actually find out that it had been advertised?

Mr JORDAN: We did not become aware of the proposed development until February or April 2003 and we heard about that through a third-hand manner.

The Hon. KAYEE GRIFFIN: Did you contact council at that point in time?

Mr JORDAN: Yes, we did. We actually started investigating, as you would suspect. We also contacted our solicitors. Our solicitors were investigating it with council. We had an FOI to find out exactly the circumstances of the situation.

The Hon. KAYEE GRIFFIN: Because of your concerns with the way council processes went, did you raise any of these concerns with the Government in relation to the way that council operated its approval process?

Mr JORDAN: Yes. We made a number of submissions, as you know, and they were made to both council officers, the officers of the Government and also the Ministers. That was part of our concerns and we raised those at the time.

The Hon. KAYEE GRIFFIN: Do you have any comments to make about the fact that with a development of this magnitude, council dealt with it through delegated authority rather than the matter coming to council or to the development assessment panel?

Mr JORDAN: We found that most unusual.

The Hon. KAYEE GRIFFIN: Has that happened with any other developments that you are aware of?

Mr JORDAN: Not that I am aware of.

The Hon. JOHN RYAN: Does Westfield believe that something improper happened with regard to the council's original consent for the development?

Mr JORDAN: We do not know what has happened in there. We know that there are unusual circumstances.

The Hon. JOHN RYAN: Are you alleging anything improper?

Mr JORDAN: I am not alleging anything.

The Hon. JOHN RYAN: Have you made any complaint to the Independent Commission Against Corruption?

Mr JORDAN: No, we have not made a complaint.

The Hon. JOHN RYAN: Was the advertisement you are referring to on page 33 of the local newspaper a normal council advertisement?

Mr JORDAN: It would be a standard one.

The Hon. JOHN RYAN: So there is nothing untoward about it being in the back pages of the newspaper because that is the normal place for advertisements?

Mr JORDAN: No. I think, as I expressed, the unusual part was that it was a change of use. We would not have expected that.

The Hon. JOHN RYAN: Does Westfield have a facility whereby it orders newspaper clippings that are relevant?

Mr JORDAN: We do order newspaper clippings, however there is no service that I know of in New South Wales that audits the council approval processes.

The Hon. JOHN RYAN: Does Westfield do that independently, given the importance of the planning process to you?

Mr JORDAN: We have papers coming into our offices. That happens by a reasonable method and there are development executives who look at those things on a part-time basis.

The Hon. JOHN RYAN: During the course of your evidence you have made various references to various pieces of correspondence you have sent to the Government, some of which I recognise because the Committee has it and some I do not recognise. Would you be prepared to table all of the correspondence that Westfield has had with the Government?

Mr JORDAN: Yes, I am.

The Hon. JOHN RYAN: Particularly the New South Wales Government in regard to this matter, including representations to Ministers?

Mr JORDAN: Yes, I am.

The Hon. JOHN RYAN: For the benefit of the Committee?

Mr JORDAN: Yes, I am.

The Hon. JOHN RYAN: Do you have it with you?

Mr JORDAN: I do not, but I am happy to provide that.

The Hon. JOHN RYAN: If at any stage you want any of that material kept confidential, I remind you that the Committee would take that into consideration?

Mr JORDAN: No, we are happy.

Mr INGHAM: Could I make a couple of comments before we close responding to some of the questions that were asked?

CHAIR: We have got other witnesses, but if you would like to, okay.

The Hon. PETER PRIMROSE: I have not asked questions. Mr Ingham, would you like to elucidate on your answers?

Mr INGHAM: Thank you, I would. The first thing I would like to say in respect of some of the questions that Mr Ryan asked earlier was that when I wrote a submission to the administrator of council objecting to the proposed rezoning of the land, I wrote it on behalf of Westfield Developments and the objection was to both the Cross Roads proposal and the Orange Grove Road proposal. It did not deal with only one.

The Hon. JOHN RYAN: We have a copy of that.

Mr INGHAM: It was to both, on behalf of Westfield. The second thing I would like to say in respect of buses serving the Orange Grove centre is that the centre's policy is intended to integrate services and facilities together so that people do not have to make unnecessary trips. They can have a single trip and avail themselves of a number of facilities and services on the same trip. They can get to a chemist, they can get to a doctor, they can get to a shopping centre and they can go and do something else in the centre on the one trip, not take a number of trips to do the functions that they want to do. It is the integration of activities in a centre that is important.

Finally, in terms of the centre's policy, the policy proposes that councils take the initiative to rezone land on the fringe of the existing major centres to allow growth to take place adjacent to those centres so that there will not be this kind of thing occurring in other places. Westfield also in December 2003 did get approval for an additional 23,000 square metres of retail space in Liverpool, which indicates that there is scope for people to develop in centres if they wish to do so and spend the time in doing so.

The Hon. JOHN RYAN: I think, with due respect, you need to point out that a significant portion of that additional space consists of a road that was previously owned by the council which you needed to purchase from the council. That is true, is it not?

Mr INGHAM: And people do that sort of thing in and adjacent to centres.

The Hon. DAVID OLDFIELD: That road in no way would have been available for sale to Westfield because it runs between two Westfield properties?

Mr INGHAM: It is already built over.

The Hon. JOHN RYAN: That is right. Only Westfield could have used that road for that purpose. It was not available for the factory outlets centre?

Mr JORDAN: To clarify that, the road was a small portion of that, we purchased a hectare of land in the centre.

The Hon. JOHN RYAN: But the land is adjacent to Westfield. For practical purposes it really was not available to any other developer, was it?

Mr JORDAN: That is not correct. The hectare that we purchased was available to anybody who wanted to purchase it at that time. It was not owned by us, we purchased it from another.

The Hon. JOHN RYAN: Owned by Liverpool council and the reason you were able to buy it was because of the arguments you put to Liverpool council. The only people who used that road are customers seeking access to Westfield property in their parking areas.

The Hon. PETER PRIMROSE: Mr Ryan, I have asked a question and I am seeking an answer. If you would like to be sworn in, Mr Ryan, I would be very happy to agree to that, but at this stage I have asked a question and I am waiting to get the answer. If the Chair will not intervene, you have had your time, and it would be really good if the witness could actually answer the question that I have asked, rather than you putting a gloss on everything that any member us.

CHAIR: Order!

The Hon. PETER PRIMROSE: Well, you call him to order. I have asked a question. Just because you have let this guy sit up at the front table, he thinks he runs the show. You are the Chair, you call him to order.

The Hon. JOHN RYAN: I asked the question because there appeared to be a suitable break, and I think I did seek the call. If I interrupted you, Mr Primrose, I am sorry.

The Hon. PETER PRIMROSE: You interrupt every time people give answers you do not like it.

CHAIR: Mr Jordon, you have agreed to provide a list of meetings with any Ministers or departments in relation to this matter. The Committee will appreciate receiving back. You said that you would be happy to give an indication of the impact on other Westfield centres of other discount retail factory outlets. You said you would be happy to table correspondence between Westfield and other government agencies. The Committee would appreciate receiving that. Mr Ingham, you have a document that you wish to table?

Mr INGHAM: Yes, I have a number of copies for members of the Committee.

Document tabled.

(The witnesses withdrew)

JOHN THOMAS HENSHAW, Solicitor, 95 Moore Street, Liverpool, sworn and examined:

CHAIR: In what capacity do you appear before the Committee today?

Mr HENSHAW: I have been invited to appear, and have been appointed as a spokesman for the Liverpool Chamber of Commerce and Industry (Inc.). I have been vocal about the subject.

CHAIR: If you should consider at any stage during your evidence that certain evidence or documents that you consider should be seen or heard in private by the Committee, the Committee will consider your request. However, the Committee or the Legislative Council may subsequently publish the evidence if they decide it is in the public interest to do so. Do you wish to make an opening statement?

Mr HENSHAW: I attended a recent meeting of the Liverpool Chamber of Commerce and Industry (Inc.) and personally raised the issue of the predicament of the people who are being put out of the centre in Orange Grove Road. I obtained an absolute vote of condemnation of the Government and support for a campaign to do whatever needs to be done to support the people in the centre. That is the basis on which we were involved, we are concerned for a number of reasons and there is a significant background in this town to Westfield and this centre. In the early 1960s—as the other gentlemen, Mr Jordan, was not able to go back to—yes, there was a church property at the first stage of the Westfield centre. There was quite significant concern in what was then the Liverpool CBD about the arrival of Westfield in Liverpool. There was quite a concern which subsequently proved to be correct; that it was going to be a real threat to the values of properties and businesses in Liverpool.

I found it quite strange today to be listening to Westfield complaining that this minor incursion of a plan for Orange Grove Road would affect its huge operation at Liverpool. Of all the organisations that I have dealt with over the years, and shopping centres in which Westfield has arrived, they operate as much as they can in greenfield developments, as they did in Liverpool. That was at the expense of local business. For them now to be complaining so hypocritically that they are opposed to this centre in Orange Grove Road is an absolute joke. If the New South Wales Government listens to it, I am afraid that now-one will have any confidence in it. I believe that the Labor Government was elected for the purpose of protecting the interests of workers, to protect small business against the big end of town, and it has done just the opposite. It has been a disgrace.

I have not yet one person, since it came about, I have not spoken to one person who has done anything but declare total opposition to what the Government is about. I challenge anyone to find anyone who is in favour of what the Government is doing. To have a Government which is trying to be elected in this country to say that it is going to change the electoral platform and change the system under which trade practices law is brought about, to have a level playing field to protect small businesses against big business, what a joke! Here is the Labor Government New South Wales doing quite the opposite, looking after the big end of town. Small business is being thrown out onto the road and all employees are put out of work. That is a disgrace. You people from the Labor Party who represent the Government here should be ashamed of yourselves for not standing up and opposing it.

The record of Labor administration in this town is a disgrace. I can go into that if you want me to do so. We have a past history with Westfield; when it arrived one of the first things that happened was that we ended up with a mall in the main street. They are famous for the malls. In most Westfields they drag in these wonderful malls; all they do is they stuff up the town. The malls stop transport running through the town and kills the key businesses. Westfield makes sure the malls happen right where it affects business the most. In this town we got a mall, a mall we had to have in the recession that we had to have in the 1990s. Mark Latham was the person who brought that about.

Westfield paid something like \$18 million to the council for the road, the original road Bay acquired in Macquarie Street. It was a huge piece of land. The \$18 million constituted approximately \$12 million of land value and the rest was interest. Mr Latham said he had three objectives with that. One, was to build the mall; another, was to build parking provision, which had been taken away by the mall and other developments in Liverpool; the other was to complete what was the famous ring road that had been sitting around in planning books for the past 30 years. Before he finished the mall it had doubled in price, and then, instead of going to the next stage that he promised, he then asked for money to build an extension of the library. It was going to cost something like \$3 million, and there was some objection to that, because these other things were very important.

I heard that the library ended up costing close to four times that amount. We ended up with what was going to be parking. Nothing happened with parking. The land that had been acquired from local people for the purpose of building a parking station was never utilised for the planned parking station. One design was for 600 parking spaces, but it never went ahead.

It has not gone ahead as at today. The end result is that Liverpool is the worst parking place you could ever come to. We cancelled meetings that were to be held in Liverpool, because there is no parking. That happens every second day. Part of the wonderful scheme that we had for the casino out here was that they were going to knock down all of the parking stations and sell them. Today they tell us that the council is not doing anything about parking, that people are going to have to park outside Liverpool and come in by public transport. Isn't that a wonderful way to look after the CBD?

It is a disgrace. Then, of course, there was the ring road. I have to tell you about the ring road because it was typical of what is happening to this town. It was going to be built around the south end of town and we were going to have a ring road that joined the end of Bigge Street and link up with the end of Bathurst Street. They picked the properties that they were going to go through and did their plans. They then resumed two shops out of a strata unit shopping centre. The end result of those two shops being taken was that they thought they also had the parking behind them, but, of course, they did not. The parking belonged to the strata body, so they did not end up getting what they thought they would get. Then they paid out a butcher or some other shopkeeper down the road for his back yard that they intended to go through and they paid him for the goodwill of his business. That proved to be totally useless later on, because they never went ahead.

Then they discovered that this road would not allow a truck to turn the corner; it was never going to work. The wonderful ring road ended up not being able to handle large trucks. So what happened? We ended up with a dog leg, a double dog leg. That is handled by four sets of lights. So we have a Latham ring road with a double dog leg that still has no parking available. That is a disgrace. I do not know what has happened to the \$18 million that Mr Latham collected, he is a bit rubbery with some of the figures that he has produced. We have a good library, there is no doubt about that. We have a great slab of concrete in Woodward Park worth about \$22 million. That is what has happened with Labor administration in this town. It is a disgrace. Now we are faced with shopping centres that are supposed to be providing services to our people that are to be closed down because someone from another part of town is putting pressure on them.

I think that is a disgrace, it is inexcusable, there is no-one in business, no-one in the public who supports what is being done, they are totally opposed to it. There are very good reasons for that. In this town we used to have a fast-tracking system. In New South Wales generally there was fast-tracking based on the premise "You show us the jobs and we will fix up the rezoning". I do not what you describe this one as; this is the fastest reverse of fast-tracking that I have ever heard.

The Liverpool chamber of commerce and their representatives and a lot of other people in this town from all walks of life have made an effort to be involved in the development of units to work out ways of developing Liverpool to make it a place where we invite people to come and start their businesses. There is the Liverpool economic development unit and the CBD economic development unit. All of their good work has been put back 10 years by what has happened. Who would want to come to Liverpool and invest their money in a development while there is a government prepared to wipe you out? If you are wondering why the chamber is a little concerned about what is happening, it could happen to anyone in this area—it could happen to anyone in business. There are something like 63 spaces in the shopping centre that employ in excess of 400 people. All of them, with their investments that must exceed millions of dollars, are being put at risk.

The Government should change its attitude on the basis alone that its representative—its expert, its director of planning and its Minister, Mr Greg Knowles—went out and officially opened that centre. He did not do it on a whim; he did it because he believed it was right. There are people in this area who went in there assuming that, because the Minister opened it, it was okay to do so. They have invested their money. If a company had the responsibilities of town planning that that department had and if it allowed a director to open the shopping centre and mislead people into believing it was okay to operate there, what would happen? They would be hauled over the coals—the trade practices Act, the fair trading Act and everything else. What is the responsibility of this Government? The responsibility of this Government—I say it to you ladies and gentlemen of the Labor Party—is to make sure that this Government compensates everyone who has been misled by your purported approval of this project. At the highest level you have given people the impression that it was okay.

As for the people who work there, there are similar provisions in the trade practices Act and the fair trading Act about deceiving people about employment. The Government will not be dealt with about that but it expects companies to operate under those guidelines. In this case employees have been deceived about employment and people who went into business have been deceived about it. I do not know who else was deceived. All I know is that this council is now going to suffer the ignominy of being sued for some millions of dollars, with the ratepayers once again cleaning up the mess. They will be expected by this Government, which stuffed it up, to pick up the bill. They are picking up the bill for something else the Government stuffed up: the project at Woodward Park. That is another \$20 million. They are asking the ratepayers again to pick that up. What they have done to business in this town has not stopped.

CHAIR: Thank you, Mr Henshaw.

The Hon. JOHN RYAN: Westfield reported to the Committee—I think you were present—that it has experienced a 5 per cent drop in its trading figures since the factory outlet opened at Liverpool. To your knowledge, are similar observations made by people who trade in the town centre?

Mr HENSHAW: The people at the chamber to whom we spoke and the committee are of the view that it is good for Liverpool: The more people who come to Liverpool, the more people who are likely to come to the CBD to shop. That is their view. I understand that at the court hearing in relation to these matters three commercial or financial reports were submitted that on the whole did not indicate to Westfield that they would suffer any losses at all. If there were any losses they would only be minimal and would be wiped out in the long term. The Government is saying that it withheld its decision because \$18 million a year was going to be lost. I would like them to look at those reports that went to the court. I do not think Westfield relied on those reports in their submission to the court—to be fair, I do not know whether they were relevant; but I understand that they did not try to push the barrow that they had suffered economically.

The Hon. JOHN RYAN: Do you know of any practical place where the factory outlet could be located in the central business district, and if it were would it have a positive or negative impact?

Mr HENSHAW: I do not know of any in the middle of the CBD; it is pretty difficult to get spots of that bulk size. That would be as close as you could get. The chamber does not look at the CBD as being the only part of the commerce of Liverpool; it sees a big area. Liverpool is a huge municipality—a big city—and the population will expand enormously. We want to have decent development and we envisage that that will take place not just in the centre of the CBD. We heard them talking today about Cross Roads. That is an excellent development because it opens up to Sydney a whole area that people would not come to otherwise. The area in Orange Grove Road is a pimple compared to the rest of the development down there. Why is it a problem? As I see it, it is good for our area and the chamber also see it that way. Whatever happens and whatever the economic impact, they believe the rights of those employees and those people with businesses override all that impact.

Ms SYLVIA HALE: Presumably members of the chamber of commerce are small business people.

Mr HENSHAW: They are.

Ms SYLVIA HALE: If any people were going to be affected by centres such as the Orange Grove centre it would be them. Yet they are sufficiently convinced that the wrong decision has been made in relation to the centre to put aside their own immediate self-interest and come out on behalf of the small businesses and the employees of the centre.

Mr HENSHAW: That dominated their reasons but they also felt that it had been good for Liverpool, contrary to their original thoughts about it.

Ms SYLVIA HALE: So there was the expectation that it would increase business activity in the region.

Mr HENSHAW: That is right. They are more concerned about what a reputation this is going to give Liverpool for future developers who come here. Only a handful of people have the money necessary to develop these sorts of developments. If they think, "Let's steer away from Liverpool", what will happen? I think Liverpool is a great city with enormous potential. It has a growth factor bigger than any other area of Australia. If it is properly administered—and, God help us, we need some good administration—we will develop into a city that will probably be far bigger than Parramatta and with a far better centre for looking after the population

that will grow here. I think it is about time the Government saw that we were properly administered. I say that to everyone. It is not only the Labor Government that has overseen some awful development around here; the other side of politics has done that as well.

The Hon. JAN BURNSWOODS: Can you tell us a little about the Liverpool chamber of commerce and industry? Do you cover the whole city area? Is that your boundary?

Mr HENSHAW: I do not think we have a boundary. It is called the City of Liverpool Chamber of Commerce and Industry Inc. and, as far as we are aware, it represents the whole of the municipality of the City of Liverpool.

The Hon. JAN BURNSWOODS: Do you have members in the Cross Roads area, for instance, and in the CBD?

Mr HENSHAW: I have not actively been involved in the chamber in recent years because of my opposition to the Oasis development, and I am not sure of the current addresses and membership of the chamber. It is a fairly wide. The last meeting I went to was a good-size gathering.

The Hon. JAN BURNSWOODS: How many people?

Mr HENSHAW: Sixty or 70 people; something like that.

The Hon. JAN BURNSWOODS: So you are not representing the chamber before the Committee?

Mr HENSHAW: I was appointed as a spokesman of the chamber. I have appeared on radio a number of times, putting forward similar views, with their concurrence and with the assistance of people who can make that happen.

The Hon. JAN BURNSWOODS: You made the comment before—I wrote it down—"God help us, we need good administration in Liverpool."

Mr HENSHAW: Yes.

The Hon. JAN BURNSWOODS: Do you have any comments about the approval process that went on in relation to the outlet centre during 2002?

Mr HENSHAW: We became a bit of an expert in trying to find the processes in this council over many years and found out that it was pretty useless trying to find out. You try to tell me what happened with the Oasis development. We have had three inquiries and I do not think anyone has found out yet what happened. In this one I got the impression that it first happened when Mark Latham was the mayor. He admitted in the paper that he had been paid a sum of money for his electoral campaign for the BP service station to be erected on that site.

The Hon. JAN BURNSWOODS: The site of the outlet centre?

Mr HENSHAW: The gentleman who owned that site also owned the Viscount caravan site.

The Hon. JAN BURNSWOODS: I return to my question, which was about the approval process in 2002.

Mr HENSHAW: It started with that.

The Hon. JAN BURNSWOODS: I think you were present when the gentleman from Westfield was going through the dates and so on of the submission of the application. We went through the process of advertising—or non-advertising or belated advertising—and so on. My question relates to your views about that process.

Mr HENSHAW: The process that he outlined was something similar to what the Supreme Court judge outlined in his judgment—a couple of dates varied here and there but it generally summarised what happened. The judge did not make reference in the judgement that I saw—

The Hon. JAN BURNSWOODS: I am not asking you whether it happened; I am asking for your opinion—or whether you have an opinion—about Liverpool council's processes for dealing with that application.

Mr HENSHAW: It was unusual, but not unusual for Liverpool.

The Hon. JAN BURNSWOODS: When you say that it was "unusual"—

Mr HENSHAW: Something as large as this development was dealt with by an officer of the council. It was not a rezoning but a change of usage. It was dealt with in a way that would draw the minimum attention to it, I would have thought.

The Hon. JAN BURNSWOODS: Deliberately so?

Mr HENSHAW: I do not know.

The Hon. JAN BURNSWOODS: Is that your guess?

Mr HENSHAW: It is how this council has operated for years—things happen in the middle of the night, meetings are never publicly announced. That has been going on for years. So you tell me. It is a process that I think does no credit to this town. But that is not the real issue. The issue is those jobs.

The Hon. JAN BURNSWOODS: That was my question; that is what I want to know. We are looking at how we got to the current situation, and clearly the approval process is part of that story.

Mr HENSHAW: I agree with that.

CHAIR: Thank you for your time today, Mr Henshaw.

(The witness withdrew)

JULIA CLAIRE IRWIN, Member of Parliament for the Federal electorate of Fowler, PO Box 547, Cabramatta, before the Committee:

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

Mrs IRWIN: I am the Federal member for Fowler and I am here today to stand up for the loss of 450 jobs and for small businesses in my electorate.

CHAIR: If at any time during your evidence you believe certain evidence or documents you may wish to present should be seen or heard in private by the Committee, the Committee will consider your request. However, the Committee or the Legislative Council itself may subsequently publish the evidence if they decide it is in the public interest to do so. Ms Irwin, would you like to make an opening statement to the Committee?

Mrs IRWIN: Yes, I would.

CHAIR: You may proceed.

Mrs IRWIN: I would like to make a brief statement to set out my concerns to this inquiry, and in particular to address item (d) of the terms of reference—that is, the economic and social impact on the Liverpool community of the loss of jobs as a result of the centre closing—and also to make some passing remarks about items (e) and (f) in relation to the impact on the local community. Beginning with the issue of jobs, I cannot stress the importance of this too highly. I would like to give the Committee some figures provided by the Australian Parliamentary Library and based on the 2001 census that underline the importance of jobs in the electorate of Fowler, which covers the location of the design outlets centre. Looking first at the unemployment rate, in the 2001 census the electorate of Fowler had the highest rate of unemployment of any electorate in Australia—and we have 150 electorates throughout Australia—with a figure of 15.1 per cent.

While that figure is lower in more recent figures, Fowler remains an area of high unemployment. For persons aged 15 to 19, a group that makes up a significant number of retail employees in 2001, Fowler had the second highest rate at 24.6 per cent with only the Newcastle electorate being higher. For persons aged 45 and over, Fowler had the highest rate in Australia at 13.2 per cent. But the figures for the percentage of unemployed only show part of the picture. As you would know, the unemployment figure does not include people discouraged from looking for a job, usually because they cannot find a suitable job.

Fowler had the fourth lowest participation rate in Australia. Only the coastal retirement electorates of Line, Wide Bay and Cowper had lower labour force participation rates than Fowler. Ranked by the proportion of women in the labour force, only the remote mining electorate of Kalgoorlie had a lower proportion of women in employment. The overall effect of these figures can be seen with Fowler having the lowest ranking of any electorate in Australia with only 42.3 per cent of the population over the age of 15 in employment.

Looking at what jobs people in Fowler are employed in, Fowler has the highest number of workers who describe themselves as tradespersons or labourers although it is the fourteenth lowest in Australia with trade qualifications. And Fowler has the second highest proportion with no qualifications. It has the second highest number of persons employed in manufacturing and it has the second lowest proportion in professional occupations. If figures can paint a picture then these figures clearly show the need for more, rather than less, employment opportunities in the Fowler electorate, and particularly the need for retail jobs, jobs which suit women and young workers and jobs which suit part-time workers.

As I have said, Fowler has the second lowest proportion of women in the labour force and that is not because they are too busy playing tennis or working out at the gym. Fowler had the ninth highest proportion of one parent families with dependent children. Fowler had the thirteenth lowest median weekly family income and that was the lowest of any metropolitan electorate in Australia. The reason for high unemployment and low work force participation in the Fowler electorate is largely because there are not suitable local jobs. In my representations to the Minister assisting the Minister for Infrastructure and Planning I addressed the issues of employment and access to affordable goods. I stated in my letter of 12 July:

The complex contains over 60 businesses providing employment for 450 people in the area. I would be greatly disappointed if it is shut down. As you would be aware, my electorate of Fowler has one of the highest rates of unemployment in

the State. The loss of so many jobs would be a severe setback to the economic wellbeing of the electorate and a financial shock to the individual employees facing the loss of income.

The complex also provides a source of affordable products which are highly sought after in an area where household incomes are among the lowest in Australia.

The loss of this facility will only lead to local residents travelling to other parts of Sydney to purchase these products.

I would be pleased if you would consider all options to allow the designer outlet complex to remain open so as to preserve this valuable facility and the 450 much needed jobs in this area

I turn now to items (e) and (f) of the terms of reference, the impact on the local community. As a Federal member, my concerns for planning issues are largely confined to matters of Federal road funding which has caused me to look at some issues regarding the Liverpool business centre. While some of those concerns are being addressed with the construction of the Western Sydney orbital tollway, for the time being, the Hume Highway at Liverpool is one of the most congested parts of the national highway. If you look at the Liverpool business district, you will see that it is bounded by the Hume Highway on two sides, by Newbridge Road on the southern side and by the main southern railway line on the eastern side. Liverpool is like an island surrounded by heavy transport routes. At peak times, traffic in Liverpool is gridlocked. There are long delays in crossing the Hume Highway at Hoxton Park Road and Elizabeth Drive, the main roads serving the residential areas around Liverpool.

Until 2001, my electorate office was located in Northumberland Street, Liverpool and while the main reason for moving to Cabramatta was to be closer to the centre of the electorate following a redistribution of the seat, another important consideration was the traffic gridlock in Liverpool. Leaving my office at around 5 o'clock of an afternoon, it could take as long as 20 minutes to cross the Hume Highway at Elizabeth Drive which was about half a kilometre from my Liverpool electorate office. To understand the problem you have to look at what is located within a radius of 1 kilometre of the centre of Liverpool. I am only going to provide committee members with a short list. There are three large high schools, two large primary schools, a TAFE college, a major hospital, a private hospital and many specialist and diagnostic services, a court house, a police station, a fire station and an ambulance station.

I mentioned the gridlock problem and I can say on more than a few occasions I have seen ambulances driving along the median strip in Elizabeth Drive to avoid the traffic jams there. Many times I have thought about those sick patients that are inside those ambulances bumping up and down along the median strip. Now as well as these and the usual collection of banks and commercial offices, there is the large and expanding Westfield shopping complex and an extensive strip shopping area. And of course Liverpool is a major transport hub with rail, commuter and interstate bus services. To that I should add that there are hundreds more residential units in high-rise developments planned or already under construction in that 1 kilometre radius of the centre of Liverpool.

As anyone who visits Liverpool regularly will tell you it is one of the most congested business areas in Sydney. Parking can be impossible to find at busy time and I know as a resident of the district that many local people avoid shopping in Liverpool because of the congestion. For these reasons I cannot understand why planners would insist on adding further retail development to this already congested centre. But these issues are minor compared to the first issue I raised today, that of the loss of more than 60 businesses and 450 jobs that are desperately needed here in Liverpool. Those workers at the Orange Grove outlet deserve to stay there and to have their jobs, just as the 60 small businesses.

CHAIR: You mentioned that the committee should consider all options to try to keep the centre open. What are the options? What should the New South Wales Government do?

Mrs IRWIN: I feel that the New South Wales Government should sign the consent to allow this centre to remain open, as it has done on numerous occasions with Walsh Bay and Clyde.

CHAIR: You have mentioned 450 jobs. Throughout the hearing that has been somewhat in dispute but you estimate 450 jobs?

Mrs IRWIN: That is what I have been led to believe 450 jobs. I read in one of the national papers over the weekend 402 or 420 jobs. They should remain there.

Ms SYLVIA HALE: On 15 July an article in the *Sydney Morning Herald* was headed "Blow to Westfield rival shops MP". It starts:

Labor's Federal MP for Fowler, Julia Irwin, was told six weeks ago the New South Wales Government—

presumably that is at the beginning of June—

would sign the planning consent to allow developer Nabil Gazal's Liverpool shopping centre to continue operating.

Who told you that?

Mrs IRWIN: It would have been about the end of May, early June 2004, I received a telephone call from Mr. Sam Bargshoon stating that there had been problems with the designer outlet, something in which I have had no involvement because it is not a Federal Government issue. Mr Bargshoon stated to me that it had gone to the Land and Environment Court, it had also gone to the Court of Appeal but he had received advice—he did not state who that advice was from—that the Minister's own bureaucrats within her department had recommended to the Minister to sign the consent for it to remain open.

Ms SYLVIA HALE: Mr Bargshoon told you that the recommendation that had gone to Minister Beamer was that the rezoning be approved and the centre remain open?

Mrs IRWIN: That is correct. That would have been about the end of May, early June. I did not diarise the date in my diary.

Ms SYLVIA HALE: You said that you were subsequently shocked to learn that it would close. Who told you that it would close?

Mrs IRWIN: I found out then it was going to close on about 27 June. I was going to Mr Tripodi's wedding along with more than 600 other people. I phoned up Mr Bargshoon as he is a friend of mine, and a friend also of my family, to see if he and his wife wanted to have a lift to the wedding because he does not live very far from my home. He stated to me that he was not going to Mr Tripodi's wedding; that the Minister had not signed the consent and he could see most probably other legal action being taken.

Ms SYLVIA HALE: You said in the same article "I think there is a lot of questions to be answered and I want to know where that pressure has come from", presumably the pressure not to rezone?

Mrs IRWIN: I think everybody really would like to know where that pressure is coming from. As I said I have never been involved in this until I found out at the end of May early July. The first time I ever was really told about the designer outlet was when I received an invitation to attend the official opening in November last year. Unfortunately, I could not attend due to parliamentary commitments. What I am very concerned about is that at the time Minister Craig Knowles for whom I have a lot of respect opened that centre. I am sure that he opened it in good faith feeling that it was legal at the time.

I would like to stress that it was the council officers of Liverpool council who changed it from, I think it was, industrial to commercial to allow this great centre to open. I want to know: Why did it open in November 2003? Why did it take Westfield until the April virtually to lodge an appeal? Why, when the Minister's own bureaucrats within her department recommended to the Minister to sign that consent which has happened in the past, she would not do this for this designer outlet?

Ms SYLVIA HALE: Today we have heard evidence that the Minister was informed by Westfield three days before the opening that it was proceeding with its appeal in the court. Do you find it peculiar or odd that Craig Knowles should then continue to officiate at the opening?

Mrs IRWIN: I think the only person that could answer that would be Minister Knowles.

Ms SYLVIA HALE: A number of people who have set up business in the centre placed great reliance upon his presence and opening the centre and everyone felt fine and there were no worries about its future. Were they reasonable in putting that construction on it?

Mrs IRWIN: I cannot answer on behalf of Mr Knowles, but I can understand that if the Minister was there, whether it be from the State Government or the Federal Government, a worker or a small business would think "This must be okay."

Ms SYLVIA HALE: Presumably you have heard the arguments that have been put forward for refusing to rezone the site and therefore to bring about the closure of the centre. Are you aware of other instances in which development applications that might be controversial or contrary to zoning requirements have been called in by the State Government on the grounds that they would have a significant employment creating aspect to them?

Mrs IRWIN: To my knowledge, no.

Ms SYLVIA HALE: So you would be surprised to learn of an instance that affected Marrickville and Ashfield councils, whereby a development application which was likely to be declined by both those councils was called in and approved on the grounds that it would create a further 36 jobs in the area?

Mrs IRWIN: That is the first I have heard. I am only here today as the Federal member, standing up for the workers and the small businesses. But yes, I would find it—

Ms SYLVIA HALE: But it is interesting that the State Labor Government should be so preoccupied with—

Mrs IRWIN: Regardless of whether there is a State Labor Government now—I know that the Liberal Government overrode decisions. We do it from a Federal perspective as well. The Minister has the right to use ministerial discretion if he or she feels that it is of benefit to the area.

Ms SYLVIA HALE: I would imagine that within Labor Party branches—and you obviously have a fairly intimate relationship with them—there would be considerable consternation about Minister Beamer's decision.

Mrs IRWIN: I have about 10 or 11 ALP branches within my electorate of Fowler. I have spoken to about six or seven of them, because Federal Parliament has been sitting for a number of weeks. Yes, my branch members are very concerned, mainly for jobs and for the small businesses.

The Hon. DAVID OLDFIELD: Did you at any stage have any physical contact, either in a meeting or speaking on the phone, with Minister Beamer about this before it was rejected?

Mrs IRWIN: No, I have never spoken to Minister Beamer. I have never spoken to Minister Knowles, or to the Premier of New South Wales. I have put pen to paper and I have written to them.

The Hon. DAVID OLDFIELD: Did you get a response?

Mrs IRWIN: I got a short response from Minister Beamer and an acknowledgement from Premier Carr.

The Hon. DAVID OLDFIELD: Are you aware of any of the conversations that are said to have occurred between Joe Tripodi, Diane Beamer and Bob Carr? Are you aware of the various allegations in relation to political manipulation here?

Mrs IRWIN: On the morning of Sunday 27 June over the telephone I was told about a conversation that Mr Bargshoon had with Mr Tripodi, and about a further conversation that the two of them had, I believe at the designer outlet, with Mr Nabil Gazal.

The Hon. JOHN RYAN: Are you sure it was 25 June?

Mrs IRWIN: I am sorry, 27 June. I cannot quite remember; I do not have my notes. It was on the morning of Mr Tripodi's wedding, 27 June, that I was told this.

The Hon. DAVID OLDFIELD: Given that you are here as the Federal member standing up, as you said, for 450 people about to lose their jobs and the small businesses in Liverpool, and given that this is a

specific and particular act of the Labor Government to destroy exactly what you are here representing, do you find yourself in a very difficult position as a member of the Labor Party?

Mrs IRWIN: I do not find myself in a very difficult position being here today. I have been a member of the Labor Party since I was 15 years of age. I have a lot of respect for the Labor Party members who are here today. They know my background. I have always stood for what I believe in, and I feel that this is a very bad decision that the State Government is making, mainly because of the job losses and the losses of the small businesses in the area. These people did nothing wrong.

The Hon. DAVID OLDFIELD: Do you have the same level of respect for Bob Carr as you do for Larry, Mo and Curly over here?

Mrs IRWIN: Again, I have known Bob Carr since I was 16 years of age. The Premier has done a lot for Western Sydney, and he should be congratulated on this. But in this instance I feel that the Premier and the Minister have made a wrong decision.

The Hon. DAVID OLDFIELD: Is there something else you can do, apart from appearing before the inquiry and writing a letter to Bob Carr and—?

Mrs IRWIN: There is nothing much more I can do. This is not Federal Labor versus State Labor—

The Hon. DAVID OLDFIELD: You are not prepared to take it that far then?

Mrs IRWIN: I have spoken in the Federal Parliament about my concerns regarding the closure of this great outlet in my electorate. You have to realise—and I am sure you do—that all that a Federal member of Parliament can really do is write letters, or get up and make their speeches in Parliament, whether it be State or Federal, and hopefully the right decision will be made.

The Hon. DAVID OLDFIELD: Unlike the public, I am fully aware of the constraints with regard to what members can achieve individually. Apart from grandstanding, is there another member of Parliament in this area, State or otherwise, who is saying this should not happen? How much real work is going on to stop it, apart from a couple of letters from you and your being here today?

Mrs IRWIN: Unfortunately, to my knowledge I am the only member of Parliament in the electorate who has come out vocally against the closure. I think you would have to ask other representatives of the area. I do not think I am grandstanding here today. I live and breathe Western Sydney. I was born and raised here. I am proud of it. I am proud of the people I represent in Federal Parliament.

I think one commentator stated to me, "Mrs Irwin, you are only doing this because it is only a few weeks out of a Federal election." I am very happy that the people I represent have faith in me. I hold the seat by 21.5 per cent. I do not care whether this had happened at the beginning of my term or towards the end of this term, prior to the next Federal election—I would have been doing the same thing as I am doing today. That is what I feel a local member should do.

The Hon. DAVID OLDFIELD: I am not questioning your sincerity in the matter, but we both understand how people might view it that way, and the difficulties of State and Federal politics, and how one can play against the other. We seem to have a situation where you alone, in the Labor Party, are saying that this should not happen. You really are standing aside from the rest of the Labor Party. The Labor members of this Committee, together with Bob Carr, Craig Knowles and Diane Beamer, and all their staff, are saying, "This is a good thing. Kick these 450 people out of their jobs, close the thing down, lose millions of dollars. It is all okay, because there is a planning constraint."

The Hon. JAN BURNSWOODS: Point of order: Some members of this Committee have tried very hard to obey all the rules of parliamentary committees by waiting until we have heard the evidence, not going outside and talking to the media, and not making our views known until we have concluded the hearing process. Madam Chair, I ask you to remind the Hon. David Oldfield that, like us, and like you and the Hon. John Ryan, he is bound by the rules of parliamentary committees and he should certainly withdraw some of the remarks he has just been making.

CHAIR: The Hon. David Oldfield, you should not presume what members might wish to put into the report of the Committee. Would you please direct your questions to the witness.

The Hon. DAVID OLDFIELD: Madam Chair, you may be assured that I will absolutely and unreservedly withdraw any of those remarks should any of the three Labor members side with what I suspect might be the majority view of this Committee at the end.

The Hon. JAN BURNSWOODS: Further to the point of order: Madam Chair, that was not a withdrawal, as you requested; in fact, it was adding insult to injury. The Hon. David Oldfield may feel that he is playing to some sort of gallery here, or indeed to his newfound friends in the Liberal Party and the Liberal minders, but I ask him to show a certain amount of respect for the multipartisan nature of this Committee and to obey the parliamentary rules that he is supposed to uphold, as the rest of us are.

CHAIR: If the Hon. Jan Burnswoods finds the remarks offensive, you can withdraw them.

The Hon. DAVID OLDFIELD: Thank you for the offer, but I choose not to.

CHAIR: Okay. What is your next question?

The Hon. DAVID OLDFIELD: Mrs Irwin, I appreciate, as I am sure the people of Liverpool do, what you are attempting to do given the difficulties involved. How much further do you think you can go? What more do you think you can do?

Mrs IRWIN: I do not think there is much more that I can do as a Federal member of Parliament. This is a State Government issue, and I think the ball lies with the Minister. All we need is that consent to be signed, which I understand the Minister's own department recommended for her to do, as has happened in the past.

The Hon. DAVID OLDFIELD: You are quite right: the department did recommend it, and the Minister rejected it. Do you think that perhaps Bob Carr should, at the very least, try to explain personally, perhaps at a public meeting?

Mrs IRWIN: I think that is something that the Premier can answer for himself. The Premier has been out to this great electorate on many, many occasions over the years, even as Leader of the Opposition. I cannot speak on behalf of the Premier. That is something you would have to ask him yourself.

CHAIR: Unfortunately, we have asked the Premier to appear, and he has not accepted our invitation, and neither have Minister Knowles, Minister Beamer or Mr Tripodi.

The Hon. DAVID OLDFIELD: I asked you whether you thought he perhaps should; I was not really asking for your view of his view.

Mrs IRWIN: That is up to the Premier.

The Hon. DAVID OLDFIELD: You would not call on him to come out here?

Mrs IRWIN: I called on the Premier to allow the centre to remain open, to allow those jobs to stay there and the small businesses to survive.

The Hon. JAN BURNSWOODS: You have said a couple of times that this is a State Government matter. I think you were here when I asked Mr Henshaw a couple of questions earlier. One of the reasons why we are all here is the processes adopted by Liverpool council, particularly during 2002 and 2003. I wonder whether you had a view about the adequacy or otherwise of the Liverpool council processes.

Mrs IRWIN: I feel that Liverpool council did the right thing. You have to realise that it was not the Labor councillors who made that decision; it was the council officers. These are people who have planning knowledge. They gave approval in good faith. I see nothing wrong in what Liverpool council did when it approved that application.

The Hon. JAN BURNSWOODS: On Friday we had some discussion with past and present officers of Liverpool council. Amongst other things, we put to them the content of letters that were written by Liverpool council staff to Mr Mosca, in particular, whom you may know. The first of the letters in that series spelled out in some detail everything that was wrong with the application and why it did not comply, but over the succeeding months letters from different council officers, particularly Mr Turrisi, who I gather most recently has been employed by Mr Mosca, said something quite different. You may not know the detail of those matters, but I wonder how confident you can be when different council officials were putting pen to paper over a period of months and making quite opposite comments about the worthiness of the application.

Mrs IRWIN: I cannot really comment on that, because I have not seen any of those documents. I am looking at the centre we have now, what I have heard about the background on when it was approved by council when it opened. It is just a great thing for Western Sydney, and it will be a very sad day to look at those people in the eyes, the day that they close their doors.

The Hon. JAN BURNSWOODS: On Friday Mr Gazal gave the figure of jobs as 402. I wonder whether you have any comment on the efforts put in place by the State Government to use both the Department of State and Regional Development and the employment firm Drake to visit the site and try to seek jobs in the Liverpool and nearby areas for those people, and to try to help them if the centre is to close.

Mrs IRWIN: They have jobs now. They do not need to find another job. The unemployment situation in my electorate is very high. If Drake can find 100 jobs, give them to the people who do not already have jobs. I have been going down to the designer outlet since it opened in November of last year. I would like to stress that I also shop at Westfield as well. I think I was down there a couple of weeks ago and I was speaking to some of the workers down there who Drake had offered them jobs. One woman who has finally found part-time employment during school hours—she walks to the centre, which is only a five-minute walk from her home—was offered a job in an ice-cream shop in the city. This is absolutely ridiculous. One gentleman was offered a job as a bus driver. He said, "Mrs Irwin, I can't possibly take up that job. I've got a bad heart." These people have jobs. Let them keep their jobs. And those jobs that Drake has found, please give them to the people I represent who are on the unemployment lines today.

The Hon. JAN BURNSWOODS: What do you think of the argument which the Government has put forward, which the planning people put forward, about the projected \$180 million loss in Liverpool CBD from competition from the centre and the argument that jobs would be lost in the CBD?

Mrs IRWIN: I find that very hard to believe. The designer outlet that we are talking about today is not only people that live and reside in the electorate I represent. Yes, a number of them do go to the designer outlet but we have people coming in from outside the area to shop there. My own children used to shop at the designer outlet at Homebush. Once it opened in Liverpool that is where they shop now. Any day of the week—I am talking seven days a week here; Sunday afternoon might be a little different down at Westfield—it is impossible to get a parking spot down there and you always see a lot of people there. So I cannot understand how it would affect the Liverpool CBD, especially Westfield.

The Hon. JAN BURNSWOODS: Earlier Westfield offered some evidence of the effects that have already—

Mrs IRWIN: It would be interesting to see when that evidence is tabled. I would like to see it tabled and to see it with my own eyes. You have to realise that this outlet, this is not the latest fashion. A lot of these fashions are 12 months old. You have stores that are up in Westfield that are actually sending their stock down to the designer outlet to get some sort of profit back.

The Hon. JOHN RYAN: If it is not a rude question—

Mrs IRWIN: I hope it is not a rude question.

The Hon. JOHN RYAN: —which suburb do you live in in your electorate?

Mrs IRWIN: I live in Bonnyrigg Heights.

The Hon. JOHN RYAN: Do you usually shop at Westfield? Is that the closest town centre?

Mrs IRWIN: It is the closest. I have a Bonnyrigg town centre. I have the Green Valley Plaza but the major shopping centre is Liverpool, which I would say on a good day, which would be Sunday afternoon before the shops close at five, about 15, 20 minutes from home.

The Hon. JOHN RYAN: How far do you go down the Cumberland Highway before people start shopping at Parramatta as opposed to Liverpool?

Mrs IRWIN: How far do you go down the Cumberland Highway?

The Hon. JOHN RYAN: Yes, going down the Cumberland Highway towards Parramatta, where generally is the point at which people consider Parramatta closer than Liverpool? I am trying to work out the drawing area.

Mrs IRWIN: That is very hard to answer.

The Hon. JOHN RYAN: Do people in Fairfield regard Liverpool Westfield as their major shopping centre?

Mrs IRWIN: You find that people in Fairfield would come into Liverpool more so than what they do at Parramatta. We have a direct railway line from Fairfield to Parramatta.

The Hon. JOHN RYAN: Have you ever discussed this matter with Joe Tripodi?

Mrs IRWIN: No, I have never discussed this matter with Joe Tripodi.

The Hon. JOHN RYAN: Did you get a reply to the letter you sent to Ms Beamer?

Mrs IRWIN: Yes, I got a reply.

The Hon. JOHN RYAN: Were you satisfied with that reply?

Mrs IRWIN: No, I was not satisfied with that reply.

The Hon. JOHN RYAN: The department of planning said that the factory outlet has to close in the end simply because it would be better to have something like the factory outlet closer to public transport in the centre of Liverpool where people take multipurpose trips and there would be less use of the motor vehicle. Do you find that a strong argument which would influence you to support the Government's decision to close it?

Mrs IRWIN: I do not think I could ever support the Government's decision to close the centre. In my opening statement I said that in that one kilometre radius parking is absolutely appalling in Liverpool. The designer outlet is a fantastic outlet and it has no effect whatsoever on Liverpool CBD. It is just so funny that it took until April of this year for Westfield to come out and take it further.

The Hon. JAN BURNSWOODS: Earlier Westfield told us that it started its proceedings in June 2003.

Mrs IRWIN: In June 2003. I did not have any knowledge of that.

The Hon. JAN BURNSWOODS: That is when it started proceedings. They went through the chronology.

Mrs IRWIN: The first time I heard that there were problems was at the end of May, beginning of June of this year.

Ms SYLVIA HALE: As the Chair has informed you, neither Mr Carr, Minister Beamer, Mr Tripodi or Mr Knowles has agreed to give evidence to this Committee. You are probably aware of a meeting that was purported to be held on 22 May at Gloria Jean's coffee shop at the Orange Grove centre, which was attended by Mr Gazal, Mr Tripodi and Mr Bargshoon. We have had evidence that in fact Mr Tripodi at that meeting told Mr Gazal that Minister Beamer had received a phone call from Mr Bob Carr asking her to screw the rezoning. This

is Mr Gazal speaking and Mr Gazal said, "Why is she doing that?" He said, "I asked her. She said he is doing a favour for his mate Lowy." Because we do not have any of the key people giving evidence, other than Mr Bargshoon and Mr Gazal, you have said that in fact you had great respect for Mr Tripodi and you know him. You have also said—

Mrs IRWIN: For Mr Knowles I have a lot of respect. Mr Tripodi is a parliamentary colleague.

Ms SYLVIA HALE: You have described Mr Bargshoon as a family friend.

Mrs IRWIN: Correct. He is a friend of mine and a friend of my family.

Ms SYLVIA HALE: Given that Mr Tripodi has denied that that conversation took place and Mr Bargshoon has said, "I was there and I witnessed it", can you give the Committee your opinion as to who is telling the truth? Which of the two would you be prepared to be a character witness?

Mrs IRWIN: I am not God. I cannot answer that. The only people who could answer that honestly were the people who had had that conversation. That would be either Mr Tripodi, Mr Bargshoon or Mr Nabil Gazal.

Ms SYLVIA HALE: But obviously it is an issue that is critical to the jobs of so many people in your electorate, jobs that you are concerned about. It also involves people, one of whose wedding you attended, another one whom you describe as a personal family friend. Surely you as an individual, let alone as a parliamentarian, would be interested in the truth of those accusations and would—

The Hon. JAN BURNSWOODS: Is this a question or a speech about friendship?

Ms SYLVIA HALE: I am thinking that it is a question about honesty and being prepared to tell the truth.

The Hon. JAN BURNSWOODS: It has nothing whatsoever to do with the terms of reference or parliamentary procedures.

The Hon. JOHN RYAN: Are you chairing this?

CHAIR: Order!

The Hon. JAN BURNSWOODS: We do not have a chair.

Mrs IRWIN: Can I just add here that I do not mind answering that question to the best of my capability but I would like also to ask that the question is not in breach of parliamentary privilege. I am concerned that the Committee is not in breach.

The Hon. JAN BURNSWOODS: If we had a chair of this Committee, rather than a lump of wood—

CHAIR: Order!

Ms SYLVIA HALE: I am asking you to give an honest opinion because two people of whom you have good knowledge are giving contradictory statements and accounts on a matter that is at the very heart of this inquiry.

Mrs IRWIN: Fine. I would like to take advice from the Chair, if she would like to check with the clerk, if it is a breach of parliamentary privilege because I am concerned about the other Committee members if this is going to be put on the public record.

CHAIR: I do not think there is any breach so far.

The Hon. JOHN RYAN: Are you concerned whether you have parliamentary privilege? I do not understand the term "breach".

Mrs IRWIN: Prior to coming to this inquiry—it was entirely a decision of mine to come here—I contacted the Clerk of the House of Representatives and I received written advice from him and that written advice was that I do not have to be here, just as the other members of Parliament who you have named are not here today. I came here in good faith but as a Federal parliamentarian I have those rights and if I felt uncomfortable about some of the questions that were going to be asked to me today I would seek guidance from the Chair under parliamentary privilege.

Ms SYLVIA HALE: She is obliged to answer us though.

CHAIR: I think that it is within the terms of reference. It relates to—

Mrs IRWIN: Where in the terms of reference?

CHAIR: They should be in front of you.

Mrs IRWIN: Could you point out which one of the terms of reference the question relates to?

CHAIR: The inquiry relates to the circumstances surrounding the approval, the role of the Premier, the Premier's Office, the member for Fairfield and any member of the Government or any other party in dealing with the development at Orange Grove.

The Hon. JAN BURNSWOODS: Point of order: Obviously those are the terms of reference but I think the issue here is that Ms Hale was asking a series of questions that asked Ms Irwin to make pretty hypothetical comments about her degrees of friendship with a number of different individuals. None of that has anything to do with the subject of this parliamentary inquiry. The witness should not be harassed and badgered about her friendships and what she might think if she heard X or Y about one of two or three people about private conversations. That is not our business, and the witness is quite right to draw attention to the issue of privilege that is before us here.

CHAIR: Ms Irwin, are you happy to answer the question? Do you have the terms of reference in front of you?

Mrs IRWIN: Yes, I have the terms of reference in front of me, and I do not wish to answer that question. No comment.

CHAIR: Okay, that is fine.

The Hon. KAYEE GRIFFIN: I think you have said a couple of times that your comment has been that the State Government is closing the centre. What about the fact that there has been a court hearing and an appeal that the operation of this centre is not legal as it presently stands?

Ms SYLVIA HALE: It did not stop the Auburn waste transfer, that decision being overturned.

The Hon. KAYEE GRIFFIN: With respect, it would be nice if other members of the Committee allowed the witness to answer the question.

CHAIR: Yes. Ms Irwin, you may answer the question.

Mrs IRWIN: Liverpool council gave approval to the designer outlet. Westfield had the right to take that to the Land and Environment Court. I believe that Gazcorp lost in the Land and Environment Court to Westfield. It was then taken to the Court of Appeal. They lost again in the Court of Appeal. This has happened before. The Ministers, and to my knowledge the Minister's own department, gave advice to the Minister that it was good for the area, it was great for jobs—in fact, for the economy of the area—and advised the Minister to sign.

Unfortunately, the Minister decided not to sign that consent, and it has happened before. Ministers, as you would be aware, can use ministerial discretion to allow a centre like this to remain open. As I stated earlier, it has happened in the past. To the best of my knowledge, I think it happened with Walsh Bay and I think it also happened—I cannot quite remember the other one but I know it definitely happened with Walsh Bay.

The Hon. KAYEE GRIFFIN: You also made a comment in relation to a question about the process whereby the original approval was given. In your opinion, would you see it as appropriate the fact that the original approval for the Orange Grove centre was done through delegation of council, given the issues that are confronting this Committee and everyone else at the moment about the fact that it is a large development, it involves an argument about retail, warehousing, clearance outlets and so on, and it also involves a lot of people. Do you think that was an appropriate way to deal with an application like this of such magnitude, and from comments made to this Committee this morning that the mayor and one former councillor who gave evidence this morning did not really know what was happening with the development application process? Would you be concerned about something like that occurring again and a development of this magnitude being dealt with in that manner?

Mrs IRWIN: I find it very hard to answer that because I have never actually been a councillor on any council. I have no planning background whatsoever. All I can virtually state is what I stated to you earlier. It was the council officers, people who have got expertise in planning, who recommended to the then councillors to approve this great centre.

The Hon. KAYEE GRIFFIN: But they did not recommend for approval. The approval was actually done by delegated authority. The councillors did not approve it as such; it was done through delegation. Would you have a concern about something like that being done through delegation, given that there has been a court case and that there have been a whole range of issues with it, that a development of that significance—

Mrs IRWIN: Was not the court case after the initial approval?

The Hon. KAYEE GRIFFIN: It had already been lodged at court while these processes and the application was being deal with, and approvals.

Mrs IRWIN: To my knowledge, I thought the decision came down in April 2004—this year.

The Hon. KAYEE GRIFFIN: It was lodged with the court before that and before the application for change of the LEP was lodged.

Mrs IRWIN: As I said, I have not got a background in planning or been on the council. I think it was virtually approved by Liverpool council in good faith by a delegate, if that is so, because it was going to be great—and it is great for the area.

(The witness withdrew)

The Hon. DAVID OLDFIELD: I would like to place on the record my objection to the notion suggested by the Hon. Jan Burnswoods earlier that she and the other Government members are here for something other than simply representing the Government.

CHAIR: That is a personal statement.

(The Committee adjourned at 4.34 p.m.)