

**REPORT OF PROCEEDINGS BEFORE**

**GENERAL PURPOSE STANDING COMMITTEE No. 4**

**INQUIRY INTO DESIGNER OUTLETS CENTRE, LIVERPOOL**

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**At Sydney on Monday 29 November 2004**

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**The Committee met at 9.30 a.m.**

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**PRESENT**

The Hon. J. A. Gardiner (Chair)

The Hon. J. C. Burnswoods

The Hon. K. F. Griffin

Ms S. P. Hale

The Hon. D. Oldfield

The Hon. P. Primrose

The Hon. J. Ryan

**CHAIR:** Welcome to the twelfth public hearing of the General Purpose Standing Committee No. 4 inquiry into the approval process for the Designer Outlets Centre on the Orange Grove Road, Liverpool. During earlier hearings I made extensive comment on a number of procedural issues. I will make reference to these statements if the need arises during today's hearing. Adverse mention: The protection afforded to Committee witnesses under parliamentary privilege should not be abused during these hearings and I remind witnesses and members to ensure that the matters raised are directly relevant to the terms of reference. I also ask members, in their questioning, to avoid the use of questions that have the purpose of making an adverse statement against the witnesses rather than obtaining information.

Media broadcasting: The Committee previously resolved to authorise the media to broadcast sound and video excerpts of its public proceedings. Copies of the broadcasting guidelines are available from the table by the door. In reporting Committee proceedings the media must take responsibility for what they publish, including any interpretation placed on evidence before the Committee. In accordance with these guidelines, while a member of the Committee and witnesses may be filmed or recorded, people in the public gallery should not be the primary focus of footage or photographs. The media are reminded not to film in the corridors or public areas outside the hearing room. Under the standing orders of the Legislative Council evidence and documents presented to the Committee that have not been tabled in Parliament may not, except with the permission of the Committee, be disclosed or published by a Committee member or by any other person. Messages: Witnesses, members and their staff are advised that any messages should be delivered through the attendant on duty or through the clerks. Please turn off any mobile phones. The Committee's first witnesses today are Mr Frank Lowy and Mr Steven Lowy, who have accepted the Committee's invitation to attend. The Committee has been advised that both witnesses will be available only until 11 a.m.

**FRANK LOWY**, Company Director, 100 William Street, Sydney, and

**STEVEN MARK LOWY**, Company Director, 100 William Street, Sydney, affirmed and examined:

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

**Mr FRANK LOWY:** As Chairman of the Westfield Group.

**Mr STEVEN LOWY:** As Joint Managing Director of the Westfield Group.

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

**Mr FRANK LOWY:** More or less.

**Mr STEVEN LOWY:** Pretty much.

**CHAIR:** I think that there are copies readily available.

**Mr FRANK LOWY:** Okay.

**CHAIR:** If either of you should consider at any stage that certain evidence you wish to give or documents you may wish to tender should be heard or seen only by the Committee please indicate that fact and the Committee will consider your request. Mr Frank Lowy, if you have an opening statement to the Committee you may proceed to give it.

**Mr FRANK LOWY:** Thank you. Ladies and gentlemen, I welcome the invitation to appear before you today as the Chairman of the Westfield Group. You have already heard from each of the Westfield executives who had any role in the Orange Grove Road matter and I understand that you want to hear from me as Chairman. I would like to say at the outset that an allegation before this inquiry—that I influenced the Premier to achieve a favorable outcome for Westfield—is simply wrong. That allegation arose from a claim by people who had a direct financial interest in Orange Grove Road, and who stood to benefit substantially by making such an allegation. Of course, the allegation cannot and will not be proved, because it is false. I want to say emphatically that Westfield has done nothing wrong in this matter. We simply exercised our right to make representations to the Government and we did that in a proper way. It is our policy to do this and I described this policy at some length in a speech to our shareholders two years ago. I appear voluntarily and I am happy to answer any questions you might have at the end of my statement. The facts of my involvement in Orange Grove Road can be summarised in answering the following six questions.

Firstly: What Communications did I have with the Premier? The fact is that I had no communication with the Premier on the subject—not on the telephone, not by email and not otherwise. I have had two meetings with the Premier this year: the first on 12 March 2004 and the other on 1 July 2004. Neither meeting concerned Westfield's business: each was about the Middle East situation and soccer matters. At neither of the meetings was Orange Grove Road or planning laws mentioned.

Secondly: Did I plan to have a meeting with the Premier? At no time did I plan to have a meeting with the Premier about Orange Grove. Some time—probably late in April—I was generally aware that Mark Ryan, the senior executive responsible at Westfield for communications with government, had met the Premier's chief of staff. I understand that Mr Ryan expressed concerns about the original approval process at the Liverpool City Council and concerns that the Assistant Minister for Planning might be inappropriately lobbied on the rezoning application. I was also generally aware that Mr Ryan had decided that, having expressed the concerns, it was now a matter for the Government to consider. I was neither close to nor involved in the detail of these matters. This would normally be the case on a matter like this, which is the responsibility of other Westfield executives, but in this instance even more so because at the time I was overseas for much of April and was also directly involved in the conduct of the Westfield merger. This was the largest transaction that the company had ever undertaken. It required my full, undivided attention from about October last year to about July or August this year.

Thirdly: Did Westfield do a deal with the Premier? Absolutely not. Westfield publicly and transparently made known its objection to the rezoning at the proper time before the Liverpool City Council. This objection was supported by detailed expert reports and copies provided to the Department of Planning. The only contact between the Premier's office and Westfield was a meeting between Mark Ryan and Graeme Wedderburn, and both had given evidence as to what happened at that meeting. It was proper and appropriate for Mr Ryan to raise the concerns that he had with the Premier's chief of staff. The fact is that Westfield did not ask the Premier, nor anyone on his behalf, to intervene in the Assistant Minister's decision on the rezoning application, nor was any deal done with the Premier to do so.

Fourthly: Was it proper for Westfield to go to court? In a democracy it is entirely appropriate for any citizen or organisation to go to court to protect their commercial interests or those of their investors, particularly where those interests are threatened by illegal activity. That is what Westfield did in this case. Its actions have been fully vindicated by the four Supreme Court judges who ruled that the Orange Grove Road development was illegal.

Fifthly: Is it proper for Westfield to make donations to political parties? Both the Labor and the Liberal Party encourage the making of donations to them, and it is lawful to do so. At State level each has opposed legislation to make donations unlawful. During the period from 1 July 1998 to 30 June 2003 the Westfield Group donated on average per year approximately the following amounts to the major State political parties: Australian Labor Party (NSW) \$43,000; Australian Liberal Party (NSW) \$40,000. Many other Australian companies make similar donations. Westfield's donations to charities and fundraising for community programs are in excess of \$3 million a year—amounting to between \$15 million and \$20 million over the same five-year period. The company's political donations to both the Labor and the Liberal Party in New South Wales equate to just 2 per cent of the total amount donated to charities. Political donations are made in response to constant requests during each year from the political parties to contribute to fundraising events. These donations are publicly recorded and fully transparent. They have no association of any kind, whether direct or indirect, with any Government decision, approval or dealing involving Westfield. I appreciate that some have genuine concerns about making political donations in a democratic system. My personal view is that a transparent system of making donations is a better alternative than prohibiting donations. But at the end of the day the matter is for the politicians to decide. Obviously, Westfield will comply with whatever Parliament decides. If it decides political donations should be made unlawful, so be it.

Sixthly, loss of jobs. The closure of the Orange Grove Road Centre caused the loss of a number of jobs, although I have read in the media that many if not most of the people involved have found new jobs. Regardless of the number, I have genuine sympathy for those concerned. I have been in that position myself when I was a young man and I know what it is to be unemployed. But to suggest that Westfield is in some way responsible for that loss of jobs is completely wrong. It was the Liverpool council that gave development consent for an illegal use which, on any objective assessment, was highly likely to be overturned if legally challenged. It was challenged by Westfield and the court ruled in Westfield's favour. None of the four Supreme Court judges who heard the matter expressed any doubt about the illegality of the approval. It was Gazcorp which proceeded to construct and lease the facility knowing that its legality was under challenge. Gazcorp was advised by one of Australia's largest law firms and Gazcorp should have been fully aware of the potential consequences of their actions. It is the actions of Liverpool council and Gazcorp which are responsible for the damage caused by the Orange Grove Road closure. The jobs lost should never have been there in the first place, given the project was illegal.

Ladies and gentlemen, the whole problem could have been avoided if Gazcorp had obeyed the laws governing land use and retail leases in this State. They are the same laws that Westfield and every other landlord must obey. These laws require developers to follow the planning regulations and they require landlords to disclose to tenants any material facts which they know might affect the future business of those tenants. I understand that neither of these things happened at Orange Grove Road. Perhaps the Committee could constructively look at why this was allowed to happen, and whether the existing laws should be strengthened so that we do not have a repeat of this situation, which was entirely avoidable. Then New South Wales can get on with creating jobs that are sustainable, in developments that are legal and within the planning guidelines.

Before I conclude, I would like to say that I believe the inquiry into this matter will not find that Westfield has behaved improperly or unprofessionally. I am happy to answer any questions on the subject after Steven has made a short statement.

**CHAIR:** Thank you, Mr Lowy. Mr Steven Lowy, you have a short statement?

**Mr STEVEN LOWY:** Yes, I do.

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

**The Hon. JOHN RYAN:** Madam Chair, just before we do that: Is there any chance that Mr Lowy could make his written statement available to the Committee to be copied—

**Mr FRANK LOWY:** Absolutely.

**The Hon. JOHN RYAN:** —so we can see it while we ask questions?

**Mr FRANK LOWY:** Now?

**The Hon. JOHN RYAN:** That would be great, if that is possible.

**CHAIR:** Thank you very much, Mr Lowy. Mr Steven Lowy?

**Mr STEVEN LOWY:** Ladies and gentlemen, I welcome the invitation to appear before you today as the Joint Managing Director of the Westfield Group. Needless to say, I appear with the same conviction expressed by my father—that Westfield has done nothing wrong in this matter. In my capacity as Joint Managing Director of Westfield I was aware in general terms of what was happening with Orange Grove Road and I will describe my involvement as follows under three subject headings. The first is my meeting with Craig Knowles in November 2003. On 17 November 2003 I attended a meeting with Craig Knowles, the Minister for Planning. Present at the meeting were Craig Knowles, myself, Mark Ryan and Bob Jordan on behalf of Westfield and Paul Levins, Mr Knowles' Chief of Staff. This was the first meeting between Westfield and the Minister since he had been reappointed to the portfolio following the 2003 election.

At the meeting we presented Westfield's views on the planning regime in New South Wales and in particular we discussed the centres policy. On the subject of the centres policy, we talked about how development such as factory outlets at Orange Grove Road adversely affected the integrity of the planning system. We informed the Minister that Westfield had received advice that the development was in breach of planning laws and had instituted legal proceedings to this effect. The Minister did not indicate whether he was aware of such proceedings but said that as he had opened the first stage of the development he intended to open the next stage in the forthcoming week.

I come now to the second subject, my telephone call to Mr Brogden in July 2004. After the announcement of the Assistant Minister's decision on the rezoning application I became aware of comments made by Mr Brogden, the Leader of the Opposition, which created an impression that Westfield had acted improperly in regard to the Orange Grove Road site. I was concerned about these comments and in particular their impact on Westfield's reputation. I was on leave during that week with my family on school holidays and on or about 14 July 2004 I telephoned Mr Brogden to assure him that the perception about Westfield had no basis. I offered to arrange a meeting to brief him on the matter and he agreed to meet with Bob Jordan and Greg Miles of Westfield. That meeting took place on 16 July 2004. I understand the inquiry has heard details of this meeting.

Thirdly, and finally, my meeting with Mr Brogden in August 2004. On 6 August 2004 I wrote to Mr Brogden in response to comments attributed to him in the *Australian Financial Review*. These comments suggested a fundamental change in planning policy by the Liberal Party, and I was concerned that this change had occurred without adequate consultation or consideration by the industry. A meeting was arranged to be held between us, and this took place on 9 August 2004. Present at the meeting were Mr Brogden and myself. At the meeting I elaborated on the concerns raised in my letter and discussed the implications of a change in policy. I am aware that other property industry executives had strong concerns and some had written to and sought meetings with Mr Brogden around this time on the same subject.

During the course of the meeting Mr Brogden indicated that the loss of jobs and businesses should override the legal position and established town planning principles. In the ensuing discussion I expressed my belief that business owners would be able to claim compensation from Gazcorp for any loss they might have

suffered. In saying that, I was aware of disclosure requirements under the retail tenancy laws. He responded by saying that business owners were not likely to expend further outlays in bringing such a claim. To this, I said that if funding of their claims was an issue this should be addressed as a separate matter rather than creating bad precedent for investment and town planning. In particular I indicated that the funding issue could be addressed by the Shopping Centre Council, or possibly by Westfield. While Mr Brogden expressed surprise at this suggestion my interpretation was that he had not realised before that the industry might be able to do this. It seemed to me he regarded this suggestion in a positive light. At no stage did I regard his reaction as conveying the impression he considered such a proposal being in any way untoward or illegal. Indeed, I have subsequently confirmed that it is quite legal and proper for such funding to be offered and provided in such circumstances. I welcome any questions.

**CHAIR:** Thank you, Mr Steven Lowy. We will now proceed to questions. Are there any questions?

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

**CHAIR:** Mr Ryan.

**The Hon. JOHN RYAN:** Mr Lowy, you have said that you met Mr Carr on two occasions during this year. Could you describe your relationship with Mr Carr? Are you friendly with him? Do you know him personally?

**Mr FRANK LOWY:** I have an appropriate relationship with him. I do not meet him socially.

**The Hon. JOHN RYAN:** At all?

**Mr FRANK LOWY:** No. I meet him usually at lunches or some functions that are organised by others. Occasionally I sit next to him, occasionally I sit somewhere else. This is my relationship with him.

**The Hon. JOHN RYAN:** Have you or Westfield ever extended hospitality to Mr Carr?

**Mr FRANK LOWY:** Not to my knowledge.

**The Hon. JOHN RYAN:** Either in this country or elsewhere?

**Mr FRANK LOWY:** Not to my knowledge.

**The Hon. JOHN RYAN:** Has Bob Carr ever been on your boat?

**Mr FRANK LOWY:** Not to my knowledge. He may have. Not to my knowledge.

**The Hon. JOHN RYAN:** You would know though, wouldn't you?

**Mr FRANK LOWY:** Well, I would know, I wouldn't know, I don't know. I wouldn't know. I mean, a lot of people used to come on my boat. He may have been when there were a lot of other people there. I don't think so.

**The Hon. JOHN RYAN:** You have long-established links with both the Federal and New South Wales Labor Party, don't you?

**Mr FRANK LOWY:** What does that mean?

**The Hon. JOHN RYAN:** Have you ever had the former Prime Minister Mr Hawke on your payroll as a consultant?

**Mr FRANK LOWY:** No.

**The Hon. JOHN RYAN:** Have you ever had the former Prime Minister Mr Keating as a consultant or on your payroll?

**Mr FRANK LOWY:** Not on my payroll. He has been working for two or three different investment banks, and on two or three occasions his firm, the firm that he worked for, we used that firm, and he was sometimes involved.

**The Hon. JOHN RYAN:** Have you met with Mr Keating about matters concerning Westfield?

**Mr FRANK LOWY:** What do you mean by "concerning Westfield"?

**The Hon. JOHN RYAN:** Have you used Mr Keating as a consultant?

**Mr FRANK LOWY:** No, I haven't used Mr Keating as a consultant generally. His firm that he worked for was used on two or three occasions to advise us on various matters, and he once or twice was the executive responsible to deal with that.

**The Hon. JOHN RYAN:** Do you know what matters he dealt with?

**Mr FRANK LOWY:** Yes, I think I would know what matters.

**The Hon. JOHN RYAN:** Could you explain that to the Committee?

**Mr FRANK LOWY:** The last time that he acted for us he was working for Carnegie Wyley in the merger of the Westfield group, and that firm, among probably seven or eight other banks, have advised us on various aspects of it, and he was part of the team, and he and others from that firm advised us on it.

**The Hon. JOHN RYAN:** Have you ever used or paid the former New South Wales Premier, Neville Wran? When I say "you", Mr Lowy, I mean you or Westfield, of course. I will use those terms interchangeably. If I am incorrect in doing that it will be helpful if you would explain.

**Mr FRANK LOWY:** I have not used him. I do not think we ever paid him.

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

**Mr FRANK LOWY:** Yes.

**The Hon. JOHN RYAN:** Is Mr Wran in any way associated with the Lowy institute?

**Mr FRANK LOWY:** No.

**The Hon. JOHN RYAN:** You never used Mr Wran as a consultant or a company associated with Mr Wran?

**Mr FRANK LOWY:** Not to my knowledge. I cannot recollect.

**The Hon. JOHN RYAN:** Do you recall when Mr Wran was Premier he gave a significant level of assistance to Westfield when it was attempting to establish a large shopping centre at East Gardens. Do you recall that?

**Mr FRANK LOWY:** I recall that, yes.

**The Hon. JOHN RYAN:** Do you recall discussing it with Mr Wran at the time?

**Mr FRANK LOWY:** I think that the description that you give us, "assistance", is the wrong explanation in the first place. The matter of the East Gardens shopping centre is a long story. Do you want me to do that, or should I respond to questions on that?

**The Hon. JOHN RYAN:** I would be happy for you to explain. My understanding is that Mr Wran's Government changed the laws and rezoned land to enable you to build a large shopping centre at Westfield, but the action of the Government in changing the laws actually stopped a court case which was then in progress. So the law was actually changed almost in a similar manner to the situation pertaining to Mr Gazal's development.

**Mr FRANK LOWY:** I think the characterisation of what you say is incorrect—"almost in a similar manner". I mean, let me come to that "almost in a similar manner". By that time the General Motors factory had closed down. Unbeknown to us, WD&HO Wills wanted to close down a cigarette factory in Kensington. All the knowledge came to me a little bit after. Mr Wills has told the Premier, Neville Wran at the time, that he is closing down the factory for economic reasons and he is moving the factory to Victoria. He will have to close it down because they need only one factory to manufacture the cigarettes. Some little time after that—I do not have the dates or the times—we were approached by Mr Wran.

At that time my late partner, John Saunders, was still alive. He was very involved with the purchase of the General Motors factory and that development. We were asked whether we would include or sell the General Motors factory to WD&HO Wills so they could establish the factory there and bring the factory from Victoria to New South Wales because a lot of people were working there. As a matter of fact, there were job losses at stake at the time. We were asked whether we would co-operate in the process of building the factory for WD&HO Wills, give up the property that we have at General Motors, and use the land adjacent to it to build a shopping centre. We did not initiate it; we did not instigate it. It was an approach from the Government to us whether we would be prepared to do that.

We, of course, acquiesced and were happy to do that. In addition to that we also got involved with the demolition of the factory in Kensington and built some apartments there. So we created from a misfortune to New South Wales into a vibrant factory—whether you like cigarettes or not is a different question—to manufacture cigarettes and keep jobs, to build a shopping centre next door and to use an old cigarette factory to turn into a very up-market, not so much up-market but a good residential development. So the circumstances were totally different. As far as we were concerned we were asked by the Government to co-operate. We talked with another company, WD&HO Wills. We came to terms with them and the project was built. It was built for the purpose of saving jobs in New South Wales, keeping the factory here and building a shopping centre at the right time.

As far as I was concerned, or anyone was concerned, there was no illegality. The Government decided to do that. I believe it went to Parliament. The Parliament decided to change the law. Parliaments do these types of things. But to make a comparison between Orange Grove Road—The shenanigans that went on in Liverpool City Council to get it approved in the first place, and then having built in the second place, and then all the controversy that went around it by our competitors. To make the same comparison between this and that one on the same day is totally out of the question.

**The Hon. JOHN RYAN:** Mr Lowy, when you met the Premier on 12 March 2004, did you meet him alone or did you take people with you?

**Mr FRANK LOWY:** I met him alone.

**The Hon. JOHN RYAN:** You did not have any staff from Westfield with you at all?

**Mr FRANK LOWY:** No.

**The Hon. JOHN RYAN:** When you met him on 1 July 2004, did you have any staff with you then?

**Mr FRANK LOWY:** No, I did not have staff with me then because it was not a Westfield business; it was something totally different.

**The Hon. JOHN RYAN:** Did you meet Ms Katherine Keating on 12 March when you were visiting the Premier in the foyer of the GMT tower?

**Mr FRANK LOWY:** Let me describe it rather than say yes or no. Of course I saw her. I was coming down the lift. I had an appointment with Mr Carr at 3.00 o'clock. I went up to his office and spent there about 45 minutes or thereabouts. At 4.00 o'clock I had a medical appointment somewhere else, so at about quarter to four, maybe 3.50, I came down the lift. As I came out a young lady approached me and she said, "Hello, Mr Lowy, how are you? I am the daughter of Paul Keating." "Oh, very nice. What are you doing here, Katherine?" She said, "I work in the planning department." "Oh, that is very interesting. Planning is a very interesting subject, and a lot of interesting jobs come out of that, and plenty of controversy." "Oh, yes. Hello" You know, one or

two other kinds of words. The discussion must have taken, or the encounter, not a discussion, must have taken maybe 30 seconds or 60 seconds because I was rushing to my other appointment. I had just come back from overseas and my head was full, plenty to do. It was very nice to see her and that was that.

**The Hon. JOHN RYAN:** Did you mention to her that you had just seen the Premier?

**Mr FRANK LOWY:** I might have.

**The Hon. JOHN RYAN:** Did you say to her words to the effect that you had discussed the centres policy with the Premier?

**Mr FRANK LOWY:** Absolutely not.

**The Hon. JOHN RYAN:** What did you discuss with the Premier on 12 March?

**Mr FRANK LOWY:** Before you kind of finish that maybe I would like to elaborate on the question that you just asked me about Katherine. I mean the discussion was as I told you. Then, of course, I read the reports in the press that there was evidence that she said something to a young man, then some months later the young man has described the discussion like it was a kind of a meeting, a certain some other type of thing. It was a total fabrication, a fantasy that this has taken place. I spent with her maybe 30 to 45 seconds. I have not met the young lady before. Being in my position, I went to say what and to whom most of the time. So I would have consulted her about the centres policy or what I have seen the Premier or what the role is about is a totally ridiculous suggestion. I am now being asked to respond to what I said to her, what she said to him, what he said to her, and what was published. You know, I mean I just need to tell you that this is an absolutely utterly ridiculous proposition.

**The Hon. JOHN RYAN:** The Committee will work on that further, Mr Lowy.

**Mr FRANK LOWY:** That is okay. I just thought I would kind of—

**The Hon. JOHN RYAN:** Would you explain to the Committee what you discussed with the Premier? How long did the meeting last?

**Mr FRANK LOWY:** It was about 45 minutes.

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

**Mr FRANK LOWY:** What was discussed? Two issues were discussed. One was the subject of the Middle East, which he and I had talked with him from time to time about. I have great interest in it and so has he. That was a major subject and then we talked about that. As you know, I am the chairman of Soccer Australia and at the time I was in a committee. Either at that time or beforehand he appointed me to a committee for the foundation for funding for soccer in New South Wales. These were the two subjects I talked to him about.

**The Hon. JOHN RYAN:** Did you initiate the meeting on 12 March, or did he?

**Mr FRANK LOWY:** I am not quite sure, actually. I think maybe I initiated it. I could have initiated it. Sometimes I initiate discussions with him when we meet at an official occasion, and I say to him, you know, "Whenever there is time maybe we could have a discussion." This time I think I probably initiated it myself.

**The Hon. JOHN RYAN:** I am sure you would have thought long and deep about this meeting, Mr Lowy. I am sure you would be able to tell the Committee whether or not you initiated it. Did you ask him for the meeting?

**Mr FRANK LOWY:** I probably asked him for the meeting.

**The Hon. JOHN RYAN:** Was it booked beforehand?

**Mr FRANK LOWY:** It was booked some time ago, yes.

**The Hon. JOHN RYAN:** What was the purpose of the meeting?

**Mr FRANK LOWY:** I just told you, actually.

**The Hon. JOHN RYAN:** No, you told us what you discussed. What was the reason for the meeting?

**Mr FRANK LOWY:** Well, I told you—to discuss issues in the Middle East and soccer.

**The Hon. JOHN RYAN:** I do not think the Premier has a lot to do with issues in the Middle East, other than a personal interest. Why would you need to see the Premier of New South Wales to discuss the Middle East?

**Mr FRANK LOWY:** First of all, you know where my sentiments are in the Middle East. If you do not know—

**The Hon. JOHN RYAN:** I do not think they are relevant to the Committee.

**Mr FRANK LOWY:** They are relevant if you let me—

**The Hon. JOHN RYAN:** They are not.

**Mr FRANK LOWY:** They are. You asked me a question. Please let me answer it. Whether they are relevant or not you can dismiss it after I have answered it.

**The Hon. JOHN RYAN:** Mr Lowy, I do not think you are not answering the question. You are talking around the answer to the question.

**Mr FRANK LOWY:** No.

**The Hon. JOHN RYAN:** What did you expect to achieve by meeting the Premier for 45 minutes? What did you want to get? Usually when you meet busy people like the Premier, like you would meet busy people like yourself, you would have a specific objective in mind as to what decision you wanted him to make, what action you wanted him to do. Was there something that you wanted him to fund? What did you want him to do?

**Mr FRANK LOWY:** Mr Ryan, you are incorrect. I meet a lot of people and I talk to them without having a specific objective to come to a conclusion there and then.

**The Hon. JOHN RYAN:** So this was a chat?

**Mr FRANK LOWY:** Please!

**The Hon. JOHN RYAN:** It was not a meeting; it was chat?

**Mr FRANK LOWY:** Please!

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

**Mr FRANK LOWY:** Please! Will you let me answer it, please?

**The Hon. JOHN RYAN:** I wish you would.

**Mr FRANK LOWY:** I will if you let me.

**The Hon. JOHN RYAN:** What did you plan to achieve at this meeting?

**Mr FRANK LOWY:** I wanted to make a point to him about some aspect of the Middle East, particularly in Israel in light of the visit and the controversy about Ashwari's visit to Australia. I had a paper which I wanted him to study and read because there are very important points made in that and I just wanted him to be made aware of that.

**The Hon. JOHN RYAN:** So you gave him a copy of the paper?

**Mr FRANK LOWY:** I gave him the paper, yes.

**The Hon. JOHN RYAN:** And you wanted him to do something about the visit of Ashwari?

**Mr FRANK LOWY:** No, I did not want him to do anything about it. I wanted him to read it, to understand it, and to come to a conclusion about it, whether at the time when I am there, or just make him aware of some of the points that was in this paper that he may not have been aware.

**The Hon. JOHN RYAN:** What was the conclusion you wanted him to come to?

**Mr FRANK LOWY:** There was no conclusion.

**The Hon. JOHN RYAN:** Mr Lowy, you just said that you wanted him to come to a conclusion. What was the conclusion?

**Mr FRANK LOWY:** Mr Ryan, you tell me that I need to make a conclusion. I went to see him. I sent him the paper. I asked him to talk about the paper and I did not ask him to conclude it. Because to conclude a matter on a matter of Israel and Palestinians and all these issues in a meeting of 45 minutes, people have been working for 100 years and they cannot come to a conclusion. You tell me I go to him, get a conclusion, say yes or no. Life is not like that.

**The Hon. JOHN RYAN:** Mr Lowy, you just told us that you were totally absorbed with the merger of your company overseas. But you have got time for a 45-minute meeting with the Premier.

**The Hon. JAN BURNSWOODS:** He did not say that. Stop verballing him. He did not say that at all.

**CHAIR:** Order!

**The Hon. JOHN RYAN:** But you have got time for a 45-five minute meeting with the Premier because you were a bit worried about his personal views on the Middle East?

**Mr FRANK LOWY:** Mr Ryan, some things are more important than a job. The state of Israel, to which I am fully committed, is more important for me than to do a job. I fitted it in because it was necessary and I felt it was necessary, and I wanted to do it.

**The Hon. JOHN RYAN:** I wish you would say these things at the beginning, Mr Lowy. I am not trying to be difficult but—

**Mr FRANK LOWY:** You must be joking if you are telling me that you are not trying to be difficult.

**CHAIR:** Order!

**The Hon. JOHN RYAN:** I simply think that if you take the trouble to have a meeting—

**The Hon. JAN BURNSWOODS:** If you did not verbal him, you might get on a bit better.

**The Hon. JOHN RYAN:** —with the most powerful political figure in New South Wales—

**Mr FRANK LOWY:** Well, that's all I have to say. I don't have anything more to say about that subject.

**The Hon. JOHN RYAN:** What else did you discuss at this meeting, Mr Lowy?

**Mr FRANK LOWY:** I discussed the matter of the development of soccer in New South Wales and Australia.

**The Hon. JOHN RYAN:** And what did you want the Premier to do about that?

**Mr FRANK LOWY:** I just wanted him to be aware of what I am doing.

**The Hon. JOHN RYAN:** He is not well known for his interest in sport, Mr Lowy. What did you want to tell him about soccer?

**The Hon. PETER PRIMROSE:** He is the Premier.

**Mr FRANK LOWY:** That's your opinion.

**The Hon. JOHN RYAN:** Well, Mr Lowy—

**Mr FRANK LOWY:** Don't Mr Lowy me. That's your opinion that he is not interested. The fact is he asked me—

**The Hon. JOHN RYAN:** Did you know about the meeting that your son had with Mr Knowles?

**Mr FRANK LOWY:** No.

**The Hon. JOHN RYAN:** Your son did not tell you that he had met with Mr Knowles and specifically discussed Orange Grove?

**Mr FRANK LOWY:** It is not necessary for him to tell me what he does.

**The Hon. JOHN RYAN:** I agree, but he is the second in charge of your company or has some level of seniority.

**Mr FRANK LOWY:** So what?

**The Hon. JOHN RYAN:** He has met with the planning Minister.

**Mr FRANK LOWY:** So what if he met with the planning Minister.

**The Hon. JOHN RYAN:** So, you were not aware of Orange Grove at the time when you met the Premier.

**Mr FRANK LOWY:** Well, I don't even know what date it was. I don't remember now.

**The Hon. JOHN RYAN:** The 12 March?

**Mr FRANK LOWY:** Pardon?

**The Hon. JOHN RYAN:** The 12 March. You did not know about Orange Grove?

**Mr FRANK LOWY:** I did not know about it?

**The Hon. JOHN RYAN:** Did you know about Orange Grove on 12 March?

**Mr FRANK LOWY:** Well, I heard about Orange Grove. Of course I did.

**The Hon. JOHN RYAN:** You were aware—

**Mr FRANK LOWY:** I did not know that Steven has made an appointment to see the Minister.

**The Hon. JOHN RYAN:** Back in November.

**Mr FRANK LOWY:** Whenever it was.

**The Hon. JOHN RYAN:** He had done more than make an appointment. He had actually seen the Minister and discussed it.

**Mr FRANK LOWY:** I did not know that he went to see the Minister, that he made an appointment to see the Minister. I just didn't know.

**The Hon. JOHN RYAN:** When you saw the Premier were you aware—

**Mr FRANK LOWY:** We don't sit in each other's pocket, you know.

**The Hon. JOHN RYAN:** When you saw the Premier were you aware of the concerns that you said Mr Ryan had—and I am speaking of Mr Mark Ryan—about, to use the Premier's expression and yours, "the shenanigans at Liverpool council" and the potential impact that this might have on the approval at Orange Grove? Were you aware of that when you saw the Premier?

**Mr FRANK LOWY:** Yeah, I probably would have been aware.

**The Hon. JOHN RYAN:** And you did not feel the need to talk to him about it?

**Mr FRANK LOWY:** Absolutely definitely not.

**The Hon. JOHN RYAN:** Why not?

**Mr FRANK LOWY:** Because I didn't want to. It wasn't my job to do it.

**The Hon. JOHN RYAN:** Why wouldn't it have been your job to do it?

**Mr FRANK LOWY:** Because it wasn't and I didn't want to, I didn't need to. Other people are doing their job and that's not what I went for. Had I gone to him for that purpose I would have written him a letter or got some briefing to him and to myself for us to discuss it appropriately.

**The Hon. JOHN RYAN:** Who was doing the job?

**Mr FRANK LOWY:** Who was doing the job? They've been here. I know of three or four people who explained to you what job did they do in what regard in that—

**The Hon. JOHN RYAN:** How did you know that they were doing that job well or at all?

**Mr FRANK LOWY:** Well, I do not know, only they're executives getting paid to do a reasonable job. Our company is not exactly not successful in this field, you know.

**The Hon. JOHN RYAN:** I realise that. Madam Chair, I heard a bell and I do not want to take someone else's time but I do want to ask Mr Lowy some more questions.

**CHAIR:** Mr Oldfield.

**The Hon. DAVID OLDFIELD:** Mr Lowy, if you knew that they were doing the job and this meeting was with Premier Carr in March, the job as far as this Committee understands was not being done until some time towards the end of April, so you were fully conversant that they were dealing with Orange Grove on 12 March when you saw the Premier and felt not a need to say anything about it; you knew they were doing the job. But the evidence we have had before the Committee is that this job you are talking about did not really seem to occur until April—

**Mr FRANK LOWY:** Mr Oldfield, no matter how many times you are going to ask me, no matter which way, that way or another way, I did not speak to the Premier about Orange Grove at any time—12 March, 1 July, before or thereafter. I did not—

**The Hon. DAVID OLDFIELD:** Is that because—

**Mr FRANK LOWY:** Not "because", I did not.

**The Hon. DAVID OLDFIELD:** Is that because you knew your staff were doing the job to take care of Orange Grove so you did not need to speak to the Premier? Is that what you are telling us?

**Mr FRANK LOWY:** I did not need to. It wasn't my job and if there was something to do for that job, other executives have done the job, and they have done it. They would have done it and done it. I know that they would.

**The Hon. DAVID OLDFIELD:** Mr Lowy, can you tell us: have you made any arrangements or is there any understanding of any kind—be it with the Lowy Institute for International Policy or through any other financial arrangements, organisations, companies, institutes or anything else that you have—have you made any arrangements for Bob Carr's employment or to receive grants at any time of any kind following his retirement from politics?

**Mr FRANK LOWY:** Can you repeat that question?

**The Hon. DAVID OLDFIELD:** Is Bob Carr going on the payroll in any way whatsoever, through an institute, through a company, through anything financially that you are involved in or that you arrange once he actually leaves politics?

**The Hon. JAN BURNSWOODS:** Madam Chair, would there be any point in asking if this question has anything to do with our terms of reference?

**The Hon. DAVID OLDFIELD:** To that point—

**CHAIR:** You may ask that question, Mr Oldfield.

**The Hon. JAN BURNSWOODS:** I would say it has nothing to do with our terms of reference. It is a hypothetical question about what may happen in the future—and asked in an offensive way as well.

**The Hon. JOHN RYAN:** I did not think it was in an offensive way as all.

**The Hon. JAN BURNSWOODS:** I would ask you, Madam Chair, whether you think that has anything to do with our terms of reference?

**The Hon. DAVID OLDFIELD:** To the point. It is quite clear during the course of the entire inquiry that the basis of the most significant allegation is this allegation that Bob Carr somehow acted corruptly through the course of being asked to do so by Mr Lowy. One might reasonably inquire as to what the payment would be, be it now or be it in the future. I think it is more than reasonable.

**CHAIR:** I rule the question in order.

**The Hon. JAN BURNSWOODS:** We thought you would, that is why I started by saying, "Is there any point?"

**The Hon. DAVID OLDFIELD:** Would you like me to repeat the question, Mr Lowy?

**Mr FRANK LOWY:** No. I know exactly what you are talking about. The answer is absolutely definitely not.

**The Hon. DAVID OLDFIELD:** So, we can be certain then in the future that when Bob Carr retires from politics, no-one will be surprised by any position he may take up in relation to anything that you are involved in?

**Mr FRANK LOWY:** Well, you can be certain that the question that you asked, the answer is no. Full stop.

**The Hon. DAVID OLDFIELD:** Well then, I will ask the question in this way then: Will Bob Carr be taking up a position at all with you in any capacity, in any way, where he is being paid through Westfield, through the Lowy institute or any relationship to you once he retires from politics?

**Mr FRANK LOWY:** There are no plans, there have been no discussions, there have been no arrangements for Bob Carr to join us or any of my interests at all in the near future.

**The Hon. DAVID OLDFIELD:** Thank you, Mr Lowy. I noted that you were quite surprised at the suggestion by Mr Ryan, as in this Mr Ryan, that there was some relationship or a parallel between Eastgardens and Orange Grove. If I could just read this to you—

**Mr FRANK LOWY:** No, I wasn't surprised. I knew the question was going to come, but, I mean, it is ridiculous to make a comparison between the two, that is all

**The Hon. DAVID OLDFIELD:** Okay. I will put it to you another way then. We agree that you reject that there is any comparison.

**Mr FRANK LOWY:** That is a bit of an understatement.

**The Hon. DAVID OLDFIELD:** I have here some *Hansard* from 1982 in relation to Eastgardens where it says:

The fact that the first responsibility of the New South Wales Government is to ensure that it keeps in employment as many people as it can and, where possible, creates employment for others, though it is difficult for governments to make decisions against a whole range of laws that they have to handle. It would be immoral in the extreme for this Government to walk around the problem of trying to keep jobs in New South Wales. It is the responsibility of government to provide employment.

That is from the *Hansard* from a Minister in relation to sorting out your requirement of land to be rezoned for Eastgardens in 1982. You do not see any parallel? In fact, there is the opposite, if you like. In 1982 the Wran Government decided to rezone 27 acres of Crown land, including eight acres of the bus depot, so you could build Eastgardens?

**Mr FRANK LOWY:** No, that is a wrong characterisation.

**The Hon. DAVID OLDFIELD:** Because they were trying to preserve—I will finish the question, Mr Lowy—

**Mr FRANK LOWY:** No, no, no.

**The Hon. DAVID OLDFIELD:** Because they were trying to create and preserve employment, helping you out, yet in 2004—

**Mr FRANK LOWY:** Oh come off it. If you make this kind of suggestion with a smirking face, Madam Chairman, please?

**CHAIR:** Order!

**The Hon. DAVID OLDFIELD:** In 2004 this Labor Government does the exact opposite and will not rezone land to create, to preserve jobs.

**Mr FRANK LOWY:** Let me—

**The Hon. DAVID OLDFIELD:** Also in what is seen to be in your interests. Your interests are what are seen to have been covered in 1982 by the Wran Government and certainly the perception is that your interests have been covered by what this Government did not do in rezoning the land in 2004. You do not see the parallel there?

**Mr FRANK LOWY:** I have told you before I don't.

**The Hon. DAVID OLDFIELD:** You are the only person in the room who doesn't.

**The Hon. JAN BURNSWOODS:** I wouldn't say that, Mr Oldfield.

**Mr FRANK LOWY:** There are a few more here. But let me—you talk of jobs, creation of commerce in addition to creating jobs in Pagewood, Eastgardens at the time was also on the agenda. I didn't make the decision, I didn't make the approach. The approach was made by the Government to us: Would we co-operate with them to achieve it? As a comparison to here, knowingly an illegal building was used illegally and with some background at Liverpool City Council, and to compare these two things—you compared it only because it suits you. No other person with any reasonable commercial judgment and in the interests of the State would make a comparison between these two events. You read me from *Hansard* what some Minister said out of probably a million words. You read half a dozen or so sentences and you quote it back for me like it matters.

**The Hon. DAVID OLDFIELD:** Well, I am sure that Mr Bedford and the Wran Government thought it mattered at that time when they rezoned 27 acres of land, including eight acres of bus depot, for you, and you also said that they threw in a few apartments. Do you remember how many apartments they threw in during the course of this rezoning that they did for nothing?

**Mr FRANK LOWY:** That's a ridiculous question, Mr Oldfield.

**The Hon. JAN BURNSWOODS:** Madam Chair, can I ask that the member not misquote. First we had Mr Ryan doing it and now we have Mr Oldfield doing it. Mr Oldfield can ask his hassling and harassing questions if he likes, but I think you should stop him when he misquotes the witness.

**The Hon. DAVID OLDFIELD:** Mr Lowy, I am sorry for using "throwing in a few apartments." Do you remember how many apartments it was that the—

**Mr FRANK LOWY:** Thrown in by whom?

**The Hon. DAVID OLDFIELD:** The Wran Government. Do you remember how many apartments they allowed you to do?

**Mr FRANK LOWY:** The Wran Government did not own land for apartments.

**The Hon. DAVID OLDFIELD:** They allowed you to build apartments—

**Mr FRANK LOWY:** They didn't allow me—

**The Hon. DAVID OLDFIELD:** High rise that were related to—

**Mr FRANK LOWY:** Excuse me, they didn't allow it to me.

**The Hon. DAVID OLDFIELD:** Who did they allow?

**Mr FRANK LOWY:** They allowed it—

**The Hon. PETER PRIMROSE:** Madam Chair, we have—

**Mr FRANK LOWY:** You are not even aware of the facts.

**The Hon. PETER PRIMROSE:** We have a series of allegations and basically speech-making allegations, which supposedly should be questions. That is what we are here for, to elicit information. The witness is seeking to provide information, then he is interrupted fully while he is trying to give an answer. The purpose of this inquiry is to elicit information. These members, as I am, if they wish can make as many speeches as they want in Parliament. The witness is here. He has been good enough to come here today. I ask you to please allow him to answer without being—just because he is not giving the answer that this pair want to hear, that is tough, but let him at least answer. That is all I ask you to do, please.

**CHAIR:** Okay. Mr Oldfield.

**The Hon. JAN BURNSWOODS:** Is that a ruling, is it?

**The Hon. JOHN RYAN:** There was no point of order.

**The Hon. PETER PRIMROSE:** It was a point of order.

**The Hon. DAVID OLDFIELD:** So, Mr Lowy, who were the apartments for, if they were not for you?

**Mr FRANK LOWY:** The land was owned by WD & HO Wills. The rezoning was made for them and then we have made a commercial arrangement with WD & HO Wills to build those apartments jointly.

**The Hon. DAVID OLDFIELD:** How many apartments were there?

**Mr FRANK LOWY:** What is the difference how many—5,000, 50,000, 1,000?

**The Hon. DAVID OLDFIELD:** If there is no difference, why don't you tell us?

**Mr FRANK LOWY:** Well I don't remember.

**The Hon. DAVID OLDFIELD:** About 2,000 is my understanding.

**Mr FRANK LOWY:** If you know, why didn't you tell me?

**The Hon. DAVID OLDFIELD:** I would have thought you would have known. They were your apartments. You made money out of them and you do not remember.

**Mr FRANK LOWY:** Listen, that happened 25 years ago or 27 years ago. You have got a piece of paper there. You know the exact figure, then you ask me the question. Then I say I don't remember, then you suddenly know.

**The Hon. DAVID OLDFIELD:** Whilst you do not remember you agree that that is the exact figure?

**Mr FRANK LOWY:** I don't agree it is the exact figure because I don't remember. You seem to know. You have the information. Let's take it like that.

**The Hon. DAVID OLDFIELD:** I am sorry, Mr Lowy, that you have made so much money you can't remember that much of it.

**Mr FRANK LOWY:** Listen, Mr Oldfield—

**CHAIR:** Order!

**Mr FRANK LOWY:** Madam Chairman—

**The Hon. JAN BURNSWOODS:** Point of order: We heard the bell. The member's time for questions has expired.

**CHAIR:** Sylvia Hale.

**Mr FRANK LOWY:** Madam Chairman, may I say a few words?

**CHAIR:** No. Ms Sylvia Hale has the call.

**Mr FRANK LOWY:** But could I say something about this denial.

**The Hon. PETER PRIMROSE:** Can he answer the question? We are here to hear him.

**CHAIR:** No, I am not going to. Sylvia Hale has the call.

**The Hon. JOHN RYAN:** The question was out of order.

**The Hon. JAN BURNSWOODS:** So you are going to prevent the witness from answering the question that he was asked?

**The Hon. JOHN RYAN:** As if we are trying to prevent somebody asking a question.

**The Hon. JAN BURNSWOODS:** You are going to prevent the witness from answering the question that he was asked, is that what you are doing, Madam Chair?

**CHAIR:** No, I understood that Mr Lowy—

**The Hon. JAN BURNSWOODS:** Because if that is what you are doing, I will certainly be moving dissent against your ruling. I ask that you allow the witness to answer, as he has requested, the questions that he was asked.

**The Hon. JOHN RYAN:** Madam Chair, it was not a point of order.

**The Hon. PETER PRIMROSE:** Don't you want to hear, John?

**The Hon. JOHN RYAN:** I don't know what the interjection made by the member was—

**Mr FRANK LOWY:** I know what the question was. May I say, Madam Chairman—

**The Hon. JOHN RYAN:** I do not think that Mr Lowy was actually asked a question. He asked to make a comment.

**CHAIR:** That is right. That is what I understood.

**The Hon. JOHN RYAN:** He did not ask to answer a question; he asked to make a comment.

**Mr FRANK LOWY:** Madam Chairman, please, can you listen to me for a moment?

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

**The Hon. PETER PRIMROSE:** Mr Ryan always has the call.

**The Hon. JOHN RYAN:** Mr Lowy has told us that he is only available until 11 o'clock. We have some questions to ask. I think our priority has got to be on us asking questions. If Mr Lowy cares to make a comment then he can do that at another—

**The Hon. PETER PRIMROSE:** The priority must be on him being allowed to answer the question.

**CHAIR:** Order! Mr Lowy, we have limited time. Ms Hale has questions to ask.

**Mr FRANK LOWY:** I am prepared to stay for those extra few minutes if it is required. First of all Mr Ryan said that we are only available from 9.30 to 11.00. It is not true. That is the time that was allocated to us, number one.

**CHAIR:** Can I just clarify that? If we have to go for a few minutes—

**The Hon. JOHN RYAN:** We understood that was determined by you.

**Mr FRANK LOWY:** But you are wrong, and it is not the first time.

**The Hon. JOHN RYAN:** Well, fine.

**The Hon. DAVID OLDFIELD:** We are happy to take the commitment that you will stay longer, thank you.

**CHAIR:** Mr Lowy, can I just clarify that? Are you able to be here for a bit longer if necessary?

**Mr FRANK LOWY:** For what?

**CHAIR:** For some more questions.

**Mr FRANK LOWY:** If you allow me to answer the questions, whatever it takes, I will stay longer. Not for other reasons, madam.

**CHAIR:** Okay.

**Mr FRANK LOWY:** An insult was made to me. Mr Oldfield made the remark, "That's why you made so much money." I thought that Australia was a country where a parliamentarian would encourage the creation of wealth. I have not only created wealth for myself but there are hundreds and hundreds of thousands of people that have benefited through my work, both commercially and philanthropically. My efforts have gone into many community issues, and I am proud of it and most of the country is proud of it. Governments of various parties have decorated to me for this type of work and he is not entitled to make a comment—

**CHAIR:** Okay.

**Mr FRANK LOWY:** Excuse me, madam. To make a comment that he just made that that is why we made so much money, he insulted me, he insulted Australia and he insulted every working person in Australia who is making a decent living and contributing to this country.

**CHAIR:** Okay.

**The Hon. PETER PRIMROSE:** Hear, hear!

**CHAIR:** Now we'll get back to questions. Sylvia Hale.

**Ms SYLVIA HALE:** Mr Lowy, you'd agree that this inquiry is essentially about corruption; about whether undue influence has been exerted on the planning process.

**The Hon. JAN BURNSWOODS:** Was that a question?

**Ms SYLVIA HALE:** In light of Neville Wran's earlier example, do you think it would be appropriate for you to have stood down from the board of the Reserve Bank while these corruption allegations were being investigated?

**Mr FRANK LOWY:** What can I tell you?

**The Hon. JAN BURNSWOODS:** Just laugh.

**The Hon. DAVID OLDFIELD:** We always use you for the giggles, Jan.

**Mr FRANK LOWY:** What can I tell you?

**Ms SYLVIA HALE:** Well, I think there is a requirement that a certain level of acknowledgement of public concerns be exhibited by people who hold responsible public positions.

**Mr FRANK LOWY:** Madam, in my opening statement I made a statement that these allegations are made by people who want to make profit.

**Ms SYLVIA HALE:** Well, you've just lauded the making of profit, I thought.

**Mr FRANK LOWY:** No, no—except the profit I made was properly made.

**Ms SYLVIA HALE:** Well—

**Mr FRANK LOWY:** You asked me a question; let me answer. These allegations are made by people who have vested interests to make sure or to try to rezone this land, and they are making allegations. I am telling you—and I have been proven right—that these allegations are absolutely and totally baseless with no foundation.

**Ms SYLVIA HALE:** But Mr Lowy, you would agree—

**Mr FRANK LOWY:** No, I don't agree.

**Ms SYLVIA HALE:** But similar allegations have followed Westfield right around the world, whether it is with regard to the \$700,000 or \$800,000 that was paid to music impresario and Tony Blair's tennis partner in London to advise—the fees that were paid to Lord Levy, who had no expertise and experience in the development industry at all. He was given that sum of money to advise on shopping centre development.

**Mr FRANK LOWY:** Can you hold on there for a moment?

**Ms SYLVIA HALE:** You have the example in Sacramento—

**Mr FRANK LOWY:** Can you hold on?

**Ms SYLVIA HALE:** No, please may I finish answering the question? You had the example in the United States with Westfield of pseudo groups being established to oppose developments by your competition. We had the example here in Sydney of the moneys that were paid to Ken Hooper—the \$100,000 that was paid to Ken Hooper—in relation to—

**The Hon. PETER PRIMROSE:** Can I apply for an extension of time for the member, please, to ask her question?

**CHAIR:** No, be quiet.

**The Hon. JAN BURNSWOODS:** My God, the Chair made a decision. Was that a ruling, Madam Chair? Can we put that on the list of rulings that you've made?

**CHAIR:** Order!

**The Hon. PETER PRIMROSE:** It's a great speech.

**CHAIR:** Order!

**Ms SYLVIA HALE:** And we have the considerable unrest that's been exhibited by community groups right across Australia—

**The Hon. PETER PRIMROSE:** You forgot the Ukraine.

**Ms SYLVIA HALE:** at the manner in which Westfield's commercial interests have been advanced by varying governments.

**The Hon. PETER PRIMROSE:** So what's the question?

**Mr FRANK LOWY:** Madam, let me ask you to be specific. First of all, what community unrest is there throughout Australia for what we do?

**Ms SYLVIA HALE:** I think you would merely need to go over to Bondi Junction at the moment, where there is considerable unrest because the Westfield development there was considered to be of State significance and the approval of it was taken out of the hands of the local community. There is a lot of concern because people are not notified adequately and they have no chance to object to what residents in the area find a very offensive development.

**Mr FRANK LOWY:** That is a load of nonsense because Bondi Junction is one of the finest shopping centres in Australia. It has been embraced by all who have visited it and those who did not visit it have read about it—how good it is, what a wonderful development it is for retailers, what a wonderful development it is for employees, how much work has been done in the area, what was improved in Bondi Junction and what facilities are there. I mean, you are kind of quoting certain things. There are of course opponents to every type of development, every type of endeavour. So Bondi Junction is an example of the finest shopping centres that exist in the world. I am proud, and we should be proud, as Australians, that we have that—and we are. And most of the people embrace it, spend money there and enjoy themselves.

**The Hon. JOHN RYAN:** Twenty thousand people did the same thing at Orange Grove.

**Ms SYLVIA HALE:** Except that there have been considerable reservations about the development and its impact on the vicinity—

**Mr FRANK LOWY:** And who is suffering from it now?

**Ms SYLVIA HALE:** by Paul Pearce, the local Labor member—

**Mr FRANK LOWY:** Oh, poor fellow!

**Ms SYLVIA HALE:** by former member for Wentworth, Peter King—

**Mr FRANK LOWY:** Oh, what a shame!

**Ms SYLVIA HALE:** by councillors Main and Newhouse.

**Mr FRANK LOWY:** Oh, terrible!

**Ms SYLVIA HALE:** These are people who are elected democratically to represent the area.

**Mr FRANK LOWY:** How terrible!

**The Hon. KAYEE GRIFFIN:** Point of order: What does this line of questioning have to do with the terms of reference?

**Mr FRANK LOWY:** What about the tens of thousands of people who enjoy spending money there, earning money there and bringing business to the area?

**The Hon. KAYEE GRIFFIN:** Can I have an answer, Madam Chair?

**Mr FRANK LOWY:** Let me ask you another question.

**CHAIR:** Order!

**Mr FRANK LOWY:** In the second question you talked about Lord Levy. You mentioned a figure that was totally out of context—\$700,000 or \$800,000—I don't know where you've read it.

**Ms SYLVIA HALE:** It was in the *Sunday Times* of April 8th 2002.

**Mr FRANK LOWY:** That's really correct information: the *Sunday Times*! Secondly, Lord Levy has done nothing for me or for the company that involved government.

**Ms SYLVIA HALE:** That's what Lord Levy said.

**Mr FRANK LOWY:** I say. He talked to no government on our behalf; he spent no time for us with the Government. His job was to make connections for us to be introduced to the business community in England to be able to establish shopping centres. Of course there are alternative ways to go about it: I could have arrived in London at an airport, taken a placard and walked around Oxford Street, "Who will sell me a shopping centre?" I could have done that instead and the result would have been we would never have been there.

**Ms SYLVIA HALE:** Mr—

**Mr FRANK LOWY:** Just one second, please; you asked me the question, let me answer it. I have a number of other people in England that made connections with me. The result is now we have a thriving business in the United Kingdom. We employ Australians in the United Kingdom, we are getting dividends from the United Kingdom to come to Australia and there is commerce going on. People are making a living and people are doing a good time. As it happens, Lord Levy was involved in some kind of controversy at the time in England and in the *Sunday Times*—it didn't quote £700,000 or £800,000, but it doesn't matter—at the time it was convenient for the issue of Lord Levy to be somehow connected with us. We had nothing to do with him as far as connection to the Government—and had he been asked to do the Government there would have been nothing wrong with it.

**Ms SYLVIA HALE:** Mr Lowy, the perception is of course—

**Mr FRANK LOWY:** The perception!

**Ms SYLVIA HALE:** that you have a series of chats with people who are very influential in government—

**The Hon. KAYEE GRIFFIN:** Excuse me, Madam Chair. I took a point of order. Could you make a ruling on it, please?

**Ms SYLVIA HALE:** that, in fact, you bring about results—

**Mr FRANK LOWY:** We live by fact, not by perception.

**Ms SYLVIA HALE:** that are beneficial to Westfield's commercial interests.

**Mr FRANK LOWY:** We live by fact, not by perception.

**CHAIR:** Order!

**Ms SYLVIA HALE:** Mr Lowy, you are the one who engages in chats with varying people, whether it's in England, whether it's in Australia or wherever.

**Mr FRANK LOWY:** And how the hell am I going to find business if I don't talk to people?

**CHAIR:** Okay.

**Mr FRANK LOWY:** It's a perception that is created by some people, including yourselves, who want to get some political advantage off our business success; nothing else.

**CHAIR:** Okay. In relation to Ms Griffin, obviously Mr Lowy was happy to answer the question. Have the Government members got any questions?

**The Hon. JAN BURNSWOODS:** Not at this stage, Madam Chair. There will be a couple later.

**CHAIR:** Thank you. Mr Ryan.

**The Hon. JOHN RYAN:** Mr Lowy, can I just return to the questions I asked you about former Premier Neville Wran? Did former Premier Neville Wran do something either for you, for Westfield or a company associated with Westfield in relation to the proposed development on the former Arnott's building in Homebush?

**Mr FRANK LOWY:** No, he didn't do any work for us. No, he didn't do any work for us. I think we talked to him once about the issue but it was not a commercial arrangement.

**The Hon. JOHN RYAN:** I missed what you said. You said you talked—

**Mr FRANK LOWY:** We had a discussion with him once because I think he knew somebody in that area. I don't remember. He was under no—he was not employed by us for that.

**The Hon. JOHN RYAN:** So, Mr Wran—

**Mr FRANK LOWY:** By the way, Madam Chair, could I ask: Are we talking about Liverpool?

**The Hon. JAN BURNSWOODS:** What a good question!

**Mr FRANK LOWY:** Or are we talking about England, or are we talking about unrest in Australia because of us?

**CHAIR:** No, you can't. Can you just answer the questions? Mr Ryan has the call.

**Mr FRANK LOWY:** Are we going to—all this area is open for discussion? You asked me—

**CHAIR:** No.

**Mr FRANK LOWY:** Madam—

**CHAIR:** Order! Mr Lowy!

**Mr FRANK LOWY:** Madam, you asked me—the terms of reference.

**CHAIR:** Mr Ryan has got limited time and he's got some more questions.

**Mr FRANK LOWY:** You asked me—

**CHAIR:** Mr—

**Mr FRANK LOWY:** Excuse me. Just give me some answer.

**CHAIR:** We're talking about the Government's planning process.

**Mr FRANK LOWY:** You asked me about do I know the terms of reference.

**CHAIR:** Order! Mr Lowy! Mr Ryan has the call. Mr Ryan.

**The Hon. JAN BURNSWOODS:** Surely it's competent for the witness to ask what the questions have to do with the terms of reference.

**The Hon. JOHN RYAN:** I think Mr Lowy is attempting to take a point of order that the questions about Neville Wran are not in order. If Mr Lowy thinks that he was going to have a discussion where political influence is relevant, in which people on behalf of Westfield have raised people such as Phuong Ngo as to whether or not they are relevant, I think we're entitled to ask whether you have a commercial relationship with Mr Neville Wran.

**Mr FRANK LOWY:** Mr Ryan, political influence had nothing to do with it at the time. Neville Wran was already no longer Premier and the issue had nothing to do with the authorities. It had to do with a dispute between us and another commercial party.

**The Hon. JOHN RYAN:** I need to make it clear. Mr Lowy, have you or any company associated with yourself or Westfield ever employed Mr Wran to do work to assist any of those companies?

**Mr FRANK LOWY:** To the best of my knowledge, no, but I will have it confirmed to you.

**The Hon. JOHN RYAN:** Mr Lowy, the *Wall Street Journal* in January 2002 stated, and I quote, "Rival mall owners consider Westfield among the most aggressive in using legal and political means to oppose new

malls near its properties." Would you say that that was an accurate description of how Westfield operates, particularly given your speech that you referred to earlier? Are you aggressive?

**Mr FRANK LOWY:** Well, I don't know whether I need to confirm it or un-confirm it. We do what we believe is in the best interests of shareholders, appropriately and legally. It's being done to us also; we have had a number of times that people objected to our proposals and sometimes we win and sometimes we lose.

**The Hon. JOHN RYAN:** So do you agree that Westfield sometimes used "political means" to oppose new malls near its properties?

**Mr FRANK LOWY:** The question is what you mean by "political means".

**The Hon. JOHN RYAN:** Well, "political means" means making representation, I imagine, to governments.

**Mr FRANK LOWY:** If we think we should make representations to government, we do. We're entitled to do so and we should do so.

**The Hon. JOHN RYAN:** Notwithstanding the perception or the reputation Westfield has of being aggressive—

**Mr FRANK LOWY:** I don't live by perceptions or reputation; I live by the facts. I know that my reputation and our reputation is a very good one. We are an honourable and decent company and responsible citizens, paying our taxes and doing all the things. So the reputation that you think we have I don't believe we have.

**The Hon. JOHN RYAN:** Mr Lowy, you interrupted me in asking a question—

**Mr FRANK LOWY:** How terrible!

**The Hon. JAN BURNSWOODS:** Oh, how shocking!

**The Hon. JOHN RYAN:** I'm not complaining, you pea brain.

**The Hon. DAVID OLDFIELD:** Gee, you've elevated her today!

**The Hon. JAN BURNSWOODS:** Oh, you people are so witty; that's what we like about being here.

**CHAIR:** Order!

**The Hon. JOHN RYAN:** Can we go back? Would there have been anything wrong with you making representations to Mr Carr on behalf of Westfield about your concerns in regard to Orange Grove? Do you think there would have been anything wrong with that?

**Mr FRANK LOWY:** Absolutely not.

**The Hon. JOHN RYAN:** I wouldn't have thought so either.

**Mr FRANK LOWY:** I didn't think so; I didn't need to do that.

**The Hon. JOHN RYAN:** In fact, it could have even been said to be sensible, given your views. You're saying to me you had a golden 45 minutes with the Premier of New South Wales—the issue was now out of the legal arena into the political arena—and on those occasions you didn't once either yourself make a representation to Bob Carr or ask other people to do it on your behalf.

**Mr FRANK LOWY:** Mr Ryan, I answered the question before. The answer is the same.

**The Hon. JOHN RYAN:** No, I don't think you have. Are you saying that for some reason or other Orange Grove was different; that you didn't use your usual—

**Mr FRANK LOWY:** No, not Orange Grove was different. For the last probably—

**The Hon. JOHN RYAN:** I'm not sure that you have allowed me to ask my question, Mr Lowy. You're saying that Orange Grove was somehow different. That, notwithstanding Westfield's usual aggressive reputation for using every available opportunity to make representations to government legitimately, you did not ask or make a representation yourself in regard to Orange Grove once it had gone from the legal environment of the courts to the political environment of being decided by Ms Beamer.

**Mr FRANK LOWY:** Have you finished the question?

**The Hon. JOHN RYAN:** I have.

**Mr FRANK LOWY:** Mr Ryan, in the past five, maybe 10, years I have not done this kind of work in Westfield. There are competent people to do that. I did not need to. I did not want to. There was not a place for me to do, because whatever representations needed to be made—you asked me a question, I would like you to listen.

**The Hon. JOHN RYAN:** Okay. You did not have—

**Mr FRANK LOWY:** I did not need to, and for probably at least the past five, if not 10 years, since that time we must have had seven, eight or 10 other local government issues that were raised, and I did not talk about them either, because it was not my job to do. It does not seem to be acceptable to you that that is so, but unfortunately, whether you like it or do not like it, this is what it is.

**The Hon. JOHN RYAN:** You might be presuming too much, Mr Lowy. You say you have other people who are capable of doing this for you. Do they include people who have been either on the staff or associated with other Labor politicians, such as Mr Mark Ryan, perhaps Mr Paul Keating and perhaps Mr Neville Wran? Is it not a fact that you employ these people because it gives you the connections with government that you need?

**Mr FRANK LOWY:** When it comes to employing Mr Wran, I told you to the best of my recollection Mr Wran is not employed, was not employed, but I need to confirm that to you. So, do not say to me but I employed Mr Wran, because I told you before I do not. You accepted it, now you bring him back again. I told you exactly what Mr Keating's role with us was in the past two or three years.

**The Hon. JOHN RYAN:** Can I just interrupt you for a moment to say—

**Mr FRANK LOWY:** I have not answered your question.

**The Hon. JOHN RYAN:** I will come back to that.

**Mr FRANK LOWY:** I have not answered your question. Mark Ryan is an executive of this company for the past 10 years. He has a role in the company. He is doing it very well. He is a very competent executive. So, and he worked in the Labor Party. We have people who maybe have worked in your party, maybe. I do not ask people what party to they work for. As long as they do their job, it does not matter what party they come from. You single out two or three people that are suitable for your own agenda here. Why do you not list 10 others, 15, 20. How many people do we employ?

**Mr STEVEN LOWY:** In Australia, just in our head office, 400.

**Mr FRANK LOWY:** There are 400 people in the office there. You could go through them and check which ones are Labor Party, which ones are Liberal Party, and whatever else.

**The Hon. JOHN RYAN:** Mr Lowy, if you did not think I was going to ask you about your connections with the Labor Party—you need not presume what my view is—I simply am obliged to ask you questions of that nature, and if you do not think you were going to get questions of that nature, I think you were kidding yourself. I need you to confirm for the Committee, did Neville Wran ever act for you, for Westfield, or for any other company associated with you in negotiations relating to the future of the Arnott's site?

**Mr FRANK LOWY:** I answered the question before and I will have to confirm that fact.

**The Hon. JOHN RYAN:** We had evidence to this Committee that on 25 August you offered to cover the expenses of Mr Nabil Gazal up to an amount of \$500,000 in order to encourage him to renege on a deal with a company called Reading in relation to a cinema complex that was proposed to be located on the site where the factory outlet is now. Do you recall making that offer during a meeting with Mr Gazal in the boardroom of your William Street headquarters, or did you make an offer of that nature at all, and could you explain to the Committee what the nature of that offer was?

**Mr FRANK LOWY:** Can I ask, how did you get that information?

**The Hon. JOHN RYAN:** I told you, it was evidence before the Committee.

**Mr FRANK LOWY:** Given by Mr Gazal?

**The Hon. JOHN RYAN:** It does not really matter where it came from.

**Mr FRANK LOWY:** It does. He says so.

**The Hon. JOHN RYAN:** That might be part of your evidence. I also understand there was comment in the media—

**The Hon. JAN BURNSWOODS:** Is he going to be able to answer the question or are you just go to keep—

**The Hon. JOHN RYAN:** Mr Lowy asked me a question. I think there was comment in the media—just to clarify it for you, Mr Lowy—that there was a response from Westfield that a commercial arrangement was made with Mr Gazal. So I think we are certainly on fertile ground.

**Mr FRANK LOWY:** No, you are wrong on that, but it does not matter. I was just interested how come you get this piece of paper from the audience, giving it to you, and you ask the question back to me. That was the point I wanted to make. Now I will answer your question.

**The Hon. JOHN RYAN:** It is a question I had on a piece of paper written by me.

**Mr FRANK LOWY:** Now you have another one.

**The Hon. JOHN RYAN:** I sometimes do, Mr Lowy. You have lawyers and other people who give advice to you.

**Mr FRANK LOWY:** I just wanted to make the point.

**The Hon. JOHN RYAN:** I do not know what point you are trying to make. Did you make this deal with Mr Gazal, or not?

**Mr FRANK LOWY:** Let me answer the question to you. I was asked by an associate in Melbourne, Village Roadshow people, who have interest in theatres. He knew or heard about the development and asked me if I can make an introduction to him or I can suggest a proposal that the two of them can come together in a commercial transaction where I think either they can maybe replace whatever arrangement was made there. I was an intermediary for that company in Melbourne to Mr Gazal. That is all. I paid no money. I offered no money from me. There was no commercial deal. It is a fabrication of stories suitable for the time today.

**The Hon. JOHN RYAN:** So, you did not offer Mr Gazal any money?

**Mr FRANK LOWY:** I did not offer, because it was not my business to offer.

**The Hon. JOHN RYAN:** I used the term you and Westfield interchangeably. Just to be clear, did Westfield make an offer?

**Mr FRANK LOWY:** It was not Westfield business. I only used my personal knowledge of that gentleman and Mr Gazal, and no money passed hands and, in fact, the deal never eventuated.

**The Hon. JOHN RYAN:** I think Mr Gazal said he did not accept the offer.

**Mr FRANK LOWY:** Excuse me, there was no offer made, because I did not have to make the offer. It was not my business. I was asked to get these two people together.

**The Hon. JOHN RYAN:** Can I just read you something from the evidence of Mr Ryan to this Committee:

I want to make it clear why Westfield sought a meeting with the Premier's chief of staff. It sought a meeting because it wanted—

Meaning Westfield—

the Premier to know about Westfield's grave concerns with the influence which was likely to be brought to bear on his Ministers in the rezoning decision and that in the view of Westfield there was a high risk that the rezoning application was not going to be considered on its merits.

You dealt with that matter in your statement, where you said it was entirely the view of Mr Ryan alone. Does Mr Ryan make decisions on behalf of Westfield or is there someone else, where Mr Ryan said he, Westfield, sought the meeting and Westfield was concerned? Who else in Westfield had these concerns other than Mr Ryan?

**Mr FRANK LOWY:** Mr Ryan has a job to do. He comes to a conclusion and he talks to others or he does not talk to others and makes whatever arrangements he needs to make.

**The Hon. JOHN RYAN:** I think it would be an entirely different proposition if Mr Ryan said to this Committee that he personally, working within Westfield, had a concern. He represented it to us as being a concern generally held within Westfield. Is it, or not?

**Mr FRANK LOWY:** Four or five people have given evidence here that they were involved in this issue. Maybe he was referring to them. Ask him who he was referring to.

**The Hon. JOHN RYAN:** Was there any discussion, to your knowledge, of these concerns that were outlined in some detail—I do not think a lot of detail but some detail—concerns of Mr Gazal, Mr Phuong Ngo, the deputy lord mayor of Liverpool, Mr Mosca, Mr Bargshoon, and so on? Were you aware of these people?

**Mr FRANK LOWY:** I think when Mr Ryan gave evidence I was not even in the country.

**The Hon. JOHN RYAN:** So, you were not aware of these concerns, nor did you share them?

**Mr FRANK LOWY:** I do not know whether I shared them or did not share them but I was not here and I did not know whatever that is he was going to give, or not going to give.

**The Hon. JOHN RYAN:** Do you not think that before such significant issues are raised with the Premier's office within Westfield—pretty stunning allegations I think in some respects—that it would be necessary for Mr Ryan to seek approval from someone before he approaches the Premier?

**Mr FRANK LOWY:** Not necessarily.

**The Hon. JOHN RYAN:** It is all right for him to just go on an excursion on his own?

**Mr FRANK LOWY:** I do not think you would describe it as an excursion.

**The Hon. JOHN RYAN:** Well, I would.

**Mr FRANK LOWY:** I do not think it would be an excursion. He was working with other executives and he and they came to a conclusion to go in there, and they are entitled to do that.

**The Hon. JOHN RYAN:** He was saying to the Premier that Mr Gazal was at the centre of the network of influence in the Liverpool area that included local members of Parliament, elected councillors and council officers; that the original rezoning application for the Orange Grove site of Mr Phuong Ngo, a man now serving life imprisonment for the murder of a member of Parliament, and I could go on—are you in some way embarrassed that such claims were made to the Premier's office by Mr Mark Ryan without him seeking approval within Westfield and that they have now been represented to this Committee as being views held within Westfield?

**Mr FRANK LOWY:** I have full confidence in what Mr Ryan does.

**The Hon. JOHN RYAN:** So, it is all right to make allegations of that nature without seeking approval?

**Mr FRANK LOWY:** A lot of allegations are flying around here that are not all right to make and have been taken as gospel.

**The Hon. JOHN RYAN:** Yes, but these ones have your imprimatur on them and have been represented as—

**Mr FRANK LOWY:** They do not have my imprimatur. He has made those allegations, if he stands by them. It is very simple.

**The Hon. JOHN RYAN:** Have those allegations ever been explained to you?

**Mr FRANK LOWY:** No.

**The Hon. JOHN RYAN:** Have you or any of your staff been contacted or interviewed by the Independent Commission Against Corruption in relation to Orange Grove?

**Mr FRANK LOWY:** I have not been. My staff may have been.

**The Hon. DAVID OLDFIELD:** Mr Lowy, do you have any understanding at all as to whether attitudes in Westfield Sydney have changed towards Westfield since the Orange Grove affair?

**Mr FRANK LOWY:** To whom?

**The Hon. DAVID OLDFIELD:** Have you any understanding or are you aware of any change in attitudes—that is changing to a negative position—towards Westfield by people in western Sydney due to the Orange Grove affair?

**Mr FRANK LOWY:** I have no idea.

**The Hon. DAVID OLDFIELD:** Going back to *Hansard*, in 1982 Mr Arblaster from Mosman, who is no longer here, he has been gone for some time—are you aware there was a significant debate in both the upper and lower Houses that concerned a number of allegations regarding corruption in the East Gardens affair?

**Mr FRANK LOWY:** Yes, I remember it a bit, yes.

**The Hon. DAVID OLDFIELD:** Mr Arblaster put it this way. He did not say much. He just said:

I have read this bill. I have certainly heard all about it.

This is all in relation to East Gardens and Westfield—

Only two questions need to be asked: How much and who got it?

Does it concern you that these things are public record and have been matters for Parliament to discuss in the past, what are considered to be nefarious activities behind the scenes with political influence by Westfield over decades?

**Mr FRANK LOWY:** Mr Oldfield, I am not living in a glass cage. The businesses are very high-profile business in Australia. Some people like us. I think we do a lot of good work for many people. Some people do not like us. There is nothing I can do about it. You may not like that I am a rich man.

**The Hon. DAVID OLDFIELD:** I do not care how much money you make. I am a capitalist.

**Mr FRANK LOWY:** You may not like that I am a rich man. Other people may love it because I give a lot of money away. So, am I concerned what people think or do not think? I cannot get into their heads. All I can do is do my best in the position that I occupy for the company, for the shareholders, for the community. I think I do it to the best of my ability and I do not think I can be expecting that everybody will love me. It is a simple as that.

**The Hon. DAVID OLDFIELD:** A lot of people will be envious, which is an unfortunate aspect.

**Mr FRANK LOWY:** You may be one of them.

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

**Mr FRANK LOWY:** From the comments you make, you are certainly not a fan of mine.

**The Hon. DAVID OLDFIELD:** I do not know you.

**Mr FRANK LOWY:** You should not have said—you should withdraw the remark you made, if you have any decency in you.

**The Hon. DAVID OLDFIELD:** I have plenty of decency, but I do not think that has anything to do with any remark I made previously.

**Mr FRANK LOWY:** I am looking for some decency from you.

**The Hon. DAVID OLDFIELD:** I will give you some decency. I agree with you on the Middle East, but I would not have gone to see Bob Carr about it. So it is questionable, you can understand here, as to whether you did.

**Mr FRANK LOWY:** You can question it, but this is the fact. You do not have to believe it, but this is the fact.

**The Hon. DAVID OLDFIELD:** That is true, we do not have to believe it.

**Mr FRANK LOWY:** No, you do not. I know you would not.

**The Hon. DAVID OLDFIELD:** Mr Lowy, has it occurred to you that if this Government was to do with Westfield—as you know, there is a bill before the lower House in regard to Orange Grove which was passed with significant numbers in the upper House—and if this Government was to do for Gazcorp what the Wran Government did for you in 1982, there would be no questions about any of this; there would be no suspicion. The whole matter would essentially go away. Has that occurred to you?

**Mr FRANK LOWY:** I answer the question with a question. Do you think the decision by this Government with regard to Orange Grove may have been made on merit? Is that a possibility?

**The Hon. DAVID OLDFIELD:** I would answer—

**Mr FRANK LOWY:** The same way you are putting to me this and that: Governments make decisions. Has it occurred to you that maybe it was done on merit, for the right reason? I read here, there is an article here in the press today or yesterday—

**The Hon. DAVID OLDFIELD:** Let me say what you say: let me answer your question. I would say to you in answer that in 1982 the Government made a decision, if we say on merit, to allow a rezoning that is substantially beyond what I can imagine benefited Westfield.

I do not see any reason why the Government cannot make a similar decision today, in fact next week they would be able to do it—they have the bill, they have not thrown it out yet. They could comply with the democratic desires of the upper House and pass that, as they did, in fact, rezone for you 22 years ago.

**Mr FRANK LOWY:** Actually, you make one major wrong assumption.

**The Hon. DAVID OLDFIELD:** Yes.

**Mr FRANK LOWY:** The 1982 Act was not in favour of Westfield, it was because the State Government decided that it wanted to keep the cigarette factory here. If anything, it was made for WD and HO Wills, and the commercial interests of New South Wales. Now, you know, when you make a comparison between Orange Grove and the commercial interests of New South Wales I think it would be exaggerating to put it on the same scale.

**The Hon. DAVID OLDFIELD:** Mr Lowy—

**Mr FRANK LOWY:** One more point I want to make on that subject.

**The Hon. DAVID OLDFIELD:** Yes.

**Mr FRANK LOWY:** You know, we are talking here of Orange Grove and we are all consumed about it and I should have done this and why didn't I do this, why didn't I do that. Orange Grove is less than one—I am sorry, Liverpool area is less than 1 per cent of our assets, and I have to spend my time on things that are a lot more than 1 per cent of my assets, or the company's assets. So, you know, we are making a terribly big deal about it here, but this is one out of 122 shopping centres or 125 shopping centres that we work around the world. And if I would be—you asked the question, also to Mr Ryan. If I would want to be involved in each centre to the extent that Mr Ryan or you want me to, I would do nothing else.

**The Hon. DAVID OLDFIELD:** Mr Lowy, I do understand that in the scheme of things it is 1 per cent and very small for you. It was, however, 100 per cent for 450 people who lost their jobs, and I have to agree with you—

**The Hon. JAN BURNSWOODS:** Madam Chair, could I point out, firstly, that the member's time has expired and, secondly, he is not asking questions, again. He is making another speech. Could we please move on to whoever's turn it is to ask questions?

**CHAIR:** Sylvia's time.

**Ms SYLVIA HALE:** Mr Lowy, could I turn to the substance of your meetings with Mr Carr? I understand at the first meeting on 12 March you talked about soccer and about the state of the Middle East. Why was it necessary for you to have a second meeting with him on 1 July?

**Mr FRANK LOWY:** Because I wanted to have a second meeting with him on the same subject. This is a subject that is alive. You can talk about it day and night for as long as you can because the problems arise all the time.

**Ms SYLVIA HALE:** Yes, but we are talking about meetings with the Premier of the State, a man who, presumably—

**Mr FRANK LOWY:** Okay.

**Ms SYLVIA HALE:** —is extraordinarily busy, and I assume you are too.

**Mr FRANK LOWY:** Yes, so I took the time to seek a meeting with him for a specific purpose, twice.

**Ms SYLVIA HALE:** But it is interesting that he felt, having met with you once, that it was appropriate to meet with you again to have a chat about general issues.

**Mr FRANK LOWY:** So be it.

**Ms SYLVIA HALE:** So you do not find it in any way unusual that on the same day, that was 1 July, that the Premier actually sent his Chief of Staff, Mr Graeme Wedderburn, to warn the Assistant Minister for Planning, Diane Beamer, about the potential corrupting influences that were surrounding the Orange Grove development?

**Mr FRANK LOWY:** I have no idea of the timings of what you're talking about.

**Ms SYLVIA HALE:** So you say it is pure coincidence that you happen to—

**Mr FRANK LOWY:** I have no idea about the timings of the Premier sending papers to the Assistant Minister, or comings or goings. This meeting was not arranged at a moment's notice.

**Ms SYLVIA HALE:** But—

**Mr FRANK LOWY:** Just one second. You asked me the question. Let me answer. I think, from memory I am speaking, I may be not correct, I had wanted to see him some weeks beforehand, and I think we have a meeting and the meeting was cancelled, and was rescheduled to 1 July.

**Ms SYLVIA HALE:** But you would agree that it was really on that 1 July—

**Mr FRANK LOWY:** No, I wouldn't agree.

**Ms SYLVIA HALE:** —this date, the first day of the new financial year—

**Mr FRANK LOWY:** I wouldn't agree. I wouldn't agree.

**Ms SYLVIA HALE:** —that, in fact, the Premier dispatches his Chief of Staff in effect to tell the Minister to do the job. That is in effect what he was doing, telling her to—

**The Hon. JOHN RYAN:** To make sure she had done her job.

**Ms SYLVIA HALE:** —make sure she had done her job. Do you find that—

**Mr FRANK LOWY:** Madam, you present it very dramatically and very effectively, except I have no idea what you're talking about.

**Ms SYLVIA HALE:** Well, you were the one who had been meeting—

**Mr FRANK LOWY:** But I just told you—

**Ms SYLVIA HALE:** —with the Premier.

**Mr FRANK LOWY:** But I just told you that this meeting that took place, I think it was a rescheduled meeting. It was set some weeks before for another date and then it was reset for that date some weeks beforehand. You kind of put a construction on it now that 1 July was some kind of mysterious date that was picked for me to go there and then all this dramatic places to take place within the Government as a result of me being there.

**Ms SYLVIA HALE:** But that was a pivotal day—

**Mr FRANK LOWY:** What is a pivotal day?

**Ms SYLVIA HALE:** —you must understand, because that was the day on which the message went down the line to, in effect—

**Mr FRANK LOWY:** Well, you are asking me a question—

**Ms SYLVIA HALE:** —that many people would say, was interpreted as this is the day that it became clear that the proposed local environment plan was going to go ahead.

**Mr FRANK LOWY:** Madam, you are asking me a question to give an opinion of the dramatic circumstances that you describe here. I have no opinion.

**Ms SYLVIA HALE:** Mr Lowy, do you acknowledge that there is a perception in the broader community that Westfield's view of how to conduct business is that money can buy anything you want?

**Mr FRANK LOWY:** It is your perception, some people's perception. It is a lot of nonsense.

**Ms SYLVIA HALE:** You have said, I think made a point today, about donations to the State Labor Party being, on average, \$40,000 for a number of years. The cumulative total is \$215,000. What you have ignored is, in fact, the extent of the donations that have gone to the Federal Labor Party, and they, over the same period, actually amounted to \$643, 000, just under \$900,000 to the Labor Party. And in the same period you gave to the State Liberal Party \$201,000 and to the Federal Liberal Party \$722, 000, making a total of \$923,000, just under \$1 million to both political parties up to 2003. Do you not think there is a common perception that that is not just done for the good of the workings of a democratic society, but rather it is done to buy influence, to buy decisions that will advance Westfield's interest?

**Mr FRANK LOWY:** Madam, let me answer that in two ways. One is I do not deal in perceptions. Secondly, I said if the parties do not want to make these donations, or the parties, let them cut it. But at the same time while you mentioned this \$1 million, we have given to other community endeavours about \$30 million. So the contribution to political parties is part of taking part in the community affairs. And you can assume that perceived influence or otherwise. The fact is we do it because we believe in a democratic system, and I can guarantee you that we get no favours for that.

**Ms SYLVIA HALE:** But perhaps the other construction you could put on it is that—

**Mr FRANK LOWY:** You can put on any construction you want to.

**Ms SYLVIA HALE:** —buying political favours is a relatively cheap exercise.

**Mr FRANK LOWY:** Well, you can put any construction you want to, but the fact is in today's, or in the last, I don't know, whatever years fortunately we have a transparent society that the governance is very important, transparency is important and if one would think that you can get a favour because you make a political donation is naive at best.

**CHAIR:** Order! I think the Government members have some questions.

**Mr FRANK LOWY:** It's 10 past 11 now. You asked me to be here until 11. I said I will extend it to those couple of minutes, but I made a speech, so if I could be excused I would be very pleased.

**The Hon. JAN BURNSWOODS:** I just have two questions, if you have time.

**The Hon. JOHN RYAN:** We may need to call you back, Mr Lowy.

**Mr FRANK LOWY:** Well, you can do what you like. You have the power.

**CHAIR:** Mr Lowy, are you happy to stay for a couple of minutes for two Government questions?

**Mr FRANK LOWY:** Yes.

**The Hon. JAN BURNSWOODS:** Mr Lowy, I am not sure which of you this question should be directed to, but I wonder if you could tell us why you or Westfield has taken action against Mr Brogden for defamation?

**Mr FRANK LOWY:** Well, I'm glad you asked that question because it is—

**Ms SYLVIA HALE:** How surprising.

**Mr FRANK LOWY:** —a very—

**The Hon. JOHN RYAN:** I am sure it will add to our terms of reference.

**Mr FRANK LOWY:** Suddenly the terms of reference have become important. Very interesting.

**The Hon. JOHN RYAN:** I am more than happy to allow—I am allowing the question, Mr Lowy.

**The Hon. JAN BURNSWOODS:** We are so grateful to you.

**The Hon. JOHN RYAN:** I simply make the point that the allegation is not within the terms of reference.

**Mr FRANK LOWY:** Madam, if it is out of reference I don't have to answer it. If you allow me not to answer it, I won't.

**The Hon. JOHN RYAN:** I am happy—I think he should answer it.

**The Hon. JAN BURNSWOODS:** Oh do you, really?

**CHAIR:** I am happy to allow the answer.

**The Hon. JOHN RYAN:** I have no problem with him answering.

**The Hon. JAN BURNSWOODS:** Mr Chair over here has given permission. If you don't wish to, you don't have to.

**CHAIR:** Did you have another question, Ms Burnswoods?

**The Hon. JAN BURNSWOODS:** Well, I am waiting for Mr Lowy to answer it, if he wishes to.

**Mr FRANK LOWY:** All right. Well, actually, Mr Brogden made a statement that we can't accept. It goes to the core of the integrity of the company and it's very offensive. It implies, or says, I think, that we have had a corrupt relationship between ourselves and the Premier of New South Wales. And we cannot let it stand without challenging it. The only way we can challenge it is ask him to withdraw it, and if he doesn't we have to resort to court. He also made an offensive allegation about the religious effect of the Jews, about Judas, which, of course, Mr Brogden has apologised that he made that reference offensive to Jews. I can't quite understand why would he have done it. Had my religion as Chairman of Westfield been Anglican or Catholic, would that reference have been made? I was quite surprised and disappointed, but he made an apology to the Jewish community. Well, if they accept it, it's fine. As far as I'm concerned I'm uncomfortable, the company's uncomfortable, having to take the Opposition Leader to court. I do not place much importance, now, if there are circumstances would arise between Mr Brogden and ourselves I would quite happily withdraw it.

**CHAIR:** Any other questions? Mr Frank Lowy, and Mr Steven Lowy, thank you very much for your time here today.

**The Hon. JOHN RYAN:** Madam Chair, I did have a couple of other questions for clarification of matters that Mr Lowy said.

**The Hon. JAN BURNSWOODS:** For heaven's sake!

**The Hon. JOHN RYAN:** I would be grateful if he could clarify them. I do not know whether he has a moment or two, but it was with regard to political donations.

**The Hon. JAN BURNSWOODS:** Point of order, Madam Chair. You clearly said before the Government waived its right earlier to ask questions. You clearly said—

**Mr FRANK LOWY:** A couple of minutes? A couple of minutes?

**The Hon. JAN BURNSWOODS:** You asked Mr Lowy to stay for me to ask a couple of questions. I cut mine to one. I now ask you to be fair. We are already 15 minutes over time. If Mr Ryan has any further questions he can clearly put them on notice.

**The Hon. JOHN RYAN:** Mr Lowy has agreed.

**Mr FRANK LOWY:** A couple of minutes.

**CHAIR:** Thank you, Mr Lowy.

**Mr FRANK LOWY:** I would rather go, but, you know—

**CHAIR:** It will save us time.

**The Hon. JOHN RYAN:** When you said in your statement that Westfield had donated relatively similar amounts to both the Liberal Party and Labor Party, it would be fair to say that after you look at election funding disclosures after individual elections, it is fairly apparent that you have donated a great deal more to the Carr Government than you have to its opponents. Is there some reason as to why you donate more to the Carr Government than to the State Liberal Party? Similarly, I think there is a similar discrepancy in regard to the two Federal parties. You do seem to have a donation practice which favours governments over oppositions. Is there some reason for that?

**Mr FRANK LOWY:** I'm not so sure about that. I really can't fully answer it for you. I gave you an average of five years and the timing is really not material. If you give certain money over a certain period of time, what would happen maybe one of the fundraisers comes on a certain day and is being responded to, another comes six months later, or two months before, or whatever.

**The Hon. JOHN RYAN:** I think there is a relevance of when you donate money just prior to an election, Mr Lowy.

**Mr FRANK LOWY:** You think there is a relevance, I don't think so.

**The Hon. JOHN RYAN:** What involvement do you have in the distribution of funds for elections? Do you, personally, make those decisions, or does someone else?

**Mr FRANK LOWY:** We discuss it amongst ourselves, yes.

**The Hon. JOHN RYAN:** Are you involved in those discussions, and do you make the approval?

**Mr FRANK LOWY:** No, I don't make the approval myself. There is a discussion about that with certain members of the company.

**The Hon. JOHN RYAN:** Could you tell the Committee at what level it is made?

**Mr FRANK LOWY:** It's debated.

**The Hon. JOHN RYAN:** Within the board or your office?

**Mr FRANK LOWY:** Some members of the board. It's not an easy subject to decide, so it's quite a discussion about that.

**The Hon. JOHN RYAN:** In the end are you the person who has the final call?

**Mr FRANK LOWY:** No.

**The Hon. JOHN RYAN:** Who does?

**Mr FRANK LOWY:** Consensus.

**The Hon. JOHN RYAN:** You do not want to give the Committee more detail than that?

**The Hon. JAN BURNSWOODS:** Why don't you ask one of Ms Hale's questions? You've asked Mr Oldfield's question.

**Mr FRANK LOWY:** It's not that I don't want to, it's a fact that it's a consensus.

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

**The Hon. JAN BURNSWOODS:** This is the two questions you had, is it, Mr Ryan?

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

**The Hon. JAN BURNSWOODS:** Are you going to ask Ms Hale's as well?

**CHAIR:** Order!

**The Hon. JAN BURNSWOODS:** And are you going to ask the one Mr Gazal passed to the minder to Oldfield to you to Gazal?

**CHAIR:** Order!

**The Hon. DAVID OLDFIELD:** Which one was that?

**The Hon. JOHN RYAN:** I think your objections take longer than the actual question and answer. Mr Lowy, you will recall—

**The Hon. JAN BURNSWOODS:** No, I'm not surprised by that. Yours are far more organised.

**The Hon. JOHN RYAN:** Mr Lowy, by the beginning of August—

**The Hon. JAN BURNSWOODS:** And the chain is far more apparent.

**The Hon. JOHN RYAN:** —there was pretty vigorous public discussion about comments that you, about Westfield—

**The Hon. JAN BURNSWOODS:** Madam Chair, I thought we were having two more questions.

**The Hon. JOHN RYAN:** Are you right?

**CHAIR:** He is up to—

**The Hon. JOHN RYAN:** Is it possible to speak a sentence without you interrupting?

**CHAIR:** Order!

**The Hon. JAN BURNSWOODS:** For some people, yes, Mr Ryan, but for someone like you, no.

**CHAIR:** Order! We just want to—

**The Hon. JAN BURNSWOODS:** If you would tell the truth occasionally—

**CHAIR:** Order!

**The Hon. JAN BURNSWOODS:** —about your plans—

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

**The Hon. DAVID OLDFIELD:** He is just following your lead.

**The Hon. JAN BURNSWOODS:** —then maybe there wouldn't be interruptions, but, given your inability to tell the truth—

**The Hon. JOHN RYAN:** Sorry, Mr Lowy.

**CHAIR:** Order!

**The Hon. JOHN RYAN:** I would like to get a word in.

**CHAIR:** Away you go.

**The Hon. PETER PRIMROSE:** So would Mr Lowy, occasionally.

**The Hon. JOHN RYAN:** In early August there was vigorous discussion about what might have been said between yourself and Mr Carr in relation to Orange Grove.

**Mr FRANK LOWY:** Sorry, can you repeat that?

**The Hon. JOHN RYAN:** During early August there was vigorous discussion about what might have been said between yourself and Mr Carr arising from allegations made by Mr Gazal and Mr Tripodi, and so on. There was virtually no comment from Westfield in terms of exactly what relationships had happened between Westfield and the Premier, and it was not until 17 August, when the Premier issued a statement that indicated that his Chief of Staff had held a meeting with someone from your office, and it wasn't until later in the day that we were told something more about the nature of that and there had been probity concerns.

Only days before these media statements were made we had spoken with Mr Jordan, who had told us that he knew about the meeting between Mr Wedderburn and Mr Ryan but he elected not to tell the Committee about it. He took the question on notice and we eventually received information long after it had become public. Is there some reason as to why Westfield did not come out right at the beginning and make that information public? Given your comments about transparency, would it not have been wise to make that disclosure at the very outset of the discussion so it did not appear, as it does now, that it has been basically shoehorned out of both yourselves and the Government as a result of this Committee finding some documents?

**Mr FRANK LOWY:** I have a couple of observations to your question. One is that whenever it would have been disclosed, earlier or later, the facts remain the same. The wisdom of disclosing, or the accidental wisdom of disclosing it whenever it is disclosed, it is disclosed. It does not change the fact that I had no discussion with the Premier about it. Also, it is appropriate for Mark Ryan to speak to whomever he thinks in the Government, as it is for Jordan, as it is for many other people. It does not change any fact because it was disclosed yesterday or today.

**The Hon. JOHN RYAN:** Some people might have said that when you enter the public debate and say, "We did not discuss it" it is relevant to mention, "We did not discuss it but important people representing us did", that that is a more honest and transparent way of doing it.

**Mr FRANK LOWY:** Some people might say it. It does not mean it is a fact because some people say it.

**The Hon. JAN BURNSWOODS:** Madam chair, can I ask how many questions Mr Ryan is going to be able to ask before he adds up to two?

**The Hon. JOHN RYAN:** I am dealing with the last issue now.

**CHAIR:** Okay.

**The Hon. JOHN RYAN:** We have received some evidence about discussion you might have had in relation to Orange Grove at a card game. Are you aware of the evidence or do I need to explain it?

**Mr FRANK LOWY:** I have heard about it.

**The Hon. JOHN RYAN:** Did you have a bet with someone that you would be able to win against—that Westfield would be successful over Nabil Gazal and Gazcorp? Did you offer to have a bet with someone that you had good reason to believe that you would be successful?

**Mr FRANK LOWY:** Let me go back a little bit. Some weeks before at that famous card game I was asked why the Gazals and Westfield have a fight. I said, "What fight?" I had no idea what it was about. As I said, it may be strange for you to kind of comprehend all that or understand it or accept it but I do a certain type of business. Another type of business in the company I do not do. So I am not aware of everything. So I did not know that. When I came back that day or some weeks later I asked, "What is going on between us and the Gazals? Why are we kind of fighting each other, commercially or whatever?" I was given a short resume of the Orange Grove affair and was told that we are in court. I think I was told that we had won the court and the matter is on appeal. I said, "What are our chances?" And I was told that the chances are excellent. Some other time I had a card game. I think Mr Gazal was not present. The question was asked. I said, "Do you want to have a bet?" He said, "No, no, I would not bet with you." When I said I would not have a bet I referred to the issues that I had been informed that our court case was won or about to be won—I am not quite sure of that—or it was under appeal after winning it. That was my reference to it. The gentleman in question that had it made a statutory declaration then he rang me that he made a statutory declaration. Following that he changed his declaration. So there were a few of these declarations coming and going to try and make it suitable for the circumstances that we, that much after time, to suit Mr Gazal's play in this instance.

**(The witnesses withdrew)**

**(Short adjournment)**

**FRANK PAUL MOSCA**, Mosca Pserras Architects, Suite 1, 21B Bathurst Street, Liverpool, on former oath, further examined:

**CHAIR:** Mr Mosca, thank you for your time. Your oath from previous appearances is relevant. Are there any questions?

**The Hon. JOHN RYAN:** Madam Chair, I am surprised that the Government members do not have questions. I would be happy have them in front of me. But there are some issues that have arisen that Mr Mosca may well choose to respond to. Mr Mosca, you may be aware of some public discussion of some evidence that we had from a Mr Murray Douglas.

**Mr MOSCA:** That was some time ago, I understand.

**The Hon. JOHN RYAN:** Basically, he alleged that you, acting on behalf of Mr Gazal, attempted to use leverage in terms of Mr Gazal's ownership of a piece of land in the central business district to extort an approval for Orange Grove from Liverpool council. Did you?

**Mr MOSCA:** No, I did not.

**The Hon. JOHN RYAN:** Did you hold meetings with Mr Murray Douglas?

**Mr MOSCA:** Well, there were meetings with Mr Murray Douglas about numerous things—well, I would not even say numerous things, but none that directly pertained to that sort of exchange of decision-making or anything like that. No, there was nothing.

**The Hon. JOHN RYAN:** Did you request Liverpool council to deal with your application within two weeks?

**Mr MOSCA:** No. I would have asked for it to hurry up—"What are you doing?"—the usual. It is in my normal course of business to ring up and try to hurry things along. I mean, if I did not, I would not be doing very well for my client. It is not that I do it for one and not for the other. On any given day, you go to the office and you will see my phone record, where everyone is ringing up, "How is my application going?" "How is my application going?" I would say that most planners in any council would have the same log of applicants ringing up to see how their applications are going. It is just normal, par for the course.

**The Hon. JOHN RYAN:** Did you at any time have a conversation to the effect that you threatened to stop negotiations with Liverpool council in regard to the Scott Street property if they did not approve Orange Grove?

**Mr MOSCA:** What I made clear to Mr Douglas—and, I understand, some of this was raised; the only reason I heard this is that I think it was raised in relation to a phone call that I made to Mr Douglas that apparently was claimed to have been made in June or July, or something—I made a call to Mr Douglas in January of 2002, which is when I was attempting to lodge the original DA, which I subsequently lodged on January 22, 2002. After a meeting with Mr Turrisi where he was umm'ing and ah'ing about whether it should or should not be, I rang Mr Douglas from my mobile phone and said, "Look, I'm going to have to start looking at designing that designer outlets thing over at Scott Street." Now, he knew I was looking at putting a commercial residential tower there. He said, "No, no, no, don't do that. I'll speak to Gerard" or "I'll do this" or "I'll do that." "Don't tell Nabil." I said, "Fine, whatever." And, from there, it was accepted, "Well, put it in and we will see what the recommendations of the various consultants are. We won't promise anything, but they want to see the economic studies, this, that and the other," and that was it. Basically, as far as I was concerned, it was just a non-event; it was just normal.

**The Hon. JOHN RYAN:** You said that Mr Douglas offered to speak to Gerard, meaning Mr Gerard Turrisi.

**Mr MOSCA:** Yes.

**The Hon. JOHN RYAN:** Do you think he did that?

**Mr MOSCA:** I don't know. But the next day, or the day after or something, Gerard said, "Look, we'll give it a run. We will see how the consultants find it. We will test it, and do the normal economic study." That was his concern. It didn't go very fast anyway.

**The Hon. JOHN RYAN:** There was a prior history to this development application, wasn't there?

**Mr MOSCA:** Which one, sorry?

**The Hon. JOHN RYAN:** The Orange Grove proposal. I mean, it has been generally represented to the Committee that this thing went through council in two weeks. Is that true?

**Mr MOSCA:** No, nowhere near it, not at all. It started on January 22 and I believe ended in November or something. And it took two applications to do so.

**The Hon. JOHN RYAN:** But, in any event, you at no time linked the development consent in Orange Grove to any threat by Gazcorp to pull out of a proposed development or memorandum of understanding in Scott Street?

**Mr MOSCA:** No.

**The Hon. JOHN RYAN:** And you were not asked by Mr Gazal to do that?

**Mr MOSCA:** No, not at all. Those memorandum of understanding, as you might know—I don't know if you have them, or you don't have them; everyone has taken copies—were well after the January date on which I spoke to Mr Douglas.

**The Hon. JOHN RYAN:** Do you recall a conversation that Mr Douglas was talking about that happened in early June?

**Mr MOSCA:** In June?

**The Hon. JOHN RYAN:** Yes. I think you said there was a conversation around June you had with him. Do you recall that conversation?

**Mr MOSCA:** Do you know what he conversation was meant to be about?

**The Hon. JOHN RYAN:** This was the one where apparently you made the threat to pull out of Scott Street.

**Mr MOSCA:** The only time I rang him about Scott Street was immediately after my meeting with Mr Turrisi in early January 2002—nothing in June or July.

**The Hon. JOHN RYAN:** I am sorry, I might have the month wrong. So in January 2002?

**Mr MOSCA:** Yes.

**The Hon. JOHN RYAN:** What had happened at your meeting with Mr Turrisi?

**Mr MOSCA:** I was trying to explain what I was proposing at Orange Grove Road, and he was very concerned about the economic impact on the CBD. I said, "Well, let's look at it, because what we are doing is something different," because I had been briefed by a town planner who said what it is is something different, it's not defined, it can go in in this way. So I am not an expert on planning law, so you go to someone that supposedly is more of an expert on planning law, who said, "The definition of your LEP at Liverpool reads this. This activity is not really defined. Because of that, it can be determined by council." And that's what we did, and that is what I was arguing, and Gerard was very reluctant to look at it. I said, "You should at least look at it."

**The Hon. JOHN RYAN:** Why wasn't Mr Turrisi inclined to look at it?

**Mr MOSCA:** Well, Gerard is a very safe sort of guy, I think, and very conservative.

**The Hon. JOHN RYAN:** Isn't he obliged to consider an application like that?

**Mr MOSCA:** That is why I was a bit upset. "Well, why don't you at least give it a run?" If you put in a valid complete DA, it should be accepted by any council. There is no point wasting time if he is going to—

**The Hon. JOHN RYAN:** You said in your evidence a while ago that Mr Douglas said to you he would have a word with Gerard. What did you understand him to mean by that?

**Mr MOSCA:** Well, I would have thought he would have said, "Look, you should give it a run: let it at least come in."

**The Hon. JOHN RYAN:** Do you think there is any chance that Mr Douglas, because of his concerns about the central business district, might have been just a bit more sensitive about what was going to happen at Scott Street than you intended?

**Mr MOSCA:** Well, given what has been said, it would appear that way, yes.

**The Hon. JOHN RYAN:** Did he ever express to you at the time any concern about the proposition that you had put to him in relation to linking the two properties at Scott Street and Orange Grove? Did he ever express a concern or have a reservation about that?

**Mr MOSCA:** No—apart from that phone call in January, no. A lot of it still depended upon council or someone buying the Westpac site too, because our site on its own, my client's site on its own, was not sufficient anyway. So there was still a very big factor remaining, and it was clear to me that there were a few sites that they had in mind.

**The Hon. JOHN RYAN:** So, what you did on Scott Street, in your view, did not matter?

**Mr MOSCA:** Well, no. They made it clear a number of times that it was one of the sites that they were considering, they had a number of sites in mind. So it couldn't be that it was the be-all and end-all.

**The Hon. JOHN RYAN:** All you had intended is that, if you were not able to get Orange Grove considered, you would have to give some consideration to putting it on other land that was already owned by Gazcorp?

**Mr MOSCA:** Well, we had a fair bit of commercial land there that needed developing under a residential tower. We were still at very early sketch stages, but we had sketched up and there was a lot of commercial space available to us.

**The Hon. JOHN RYAN:** Thank you, Mr Mosca. I think those are the only issues that I have to raise with you.

**CHAIR:** Have any Government members got questions?

**The Hon. KAYEE GRIFFIN:** Yes, Madam Chair.

**CHAIR:** The Hon. Kayee Griffin.

**The Hon. KAYEE GRIFFIN:** Mr Mosca, you just said that "If you had a valid complete DA..." What would you—

**Mr MOSCA:** What I am saying is, when you have a valid complete DA you should be able to lodge it. There shouldn't be anything saying: No, we really don't want you to put it in. That is not the right way to do it. That is what I meant.

**The Hon. KAYEE GRIFFIN:** So, even if it was a DA where the zoning and that was incorrect for what was being proposed, you would still consider it valid and complete even though—

**Mr MOSCA:** If it was clear that the zoning was incorrect, yes, then I think you are probably right, that no—although, again, I am not a planning expert—but if we felt we had a planning report to say it was valid and we thought it was valid, then, yes, it is a valid DA and it should go in and should be accepted.

**The Hon. KAYEE GRIFFIN:** Regardless of what council may say?

**Mr MOSCA:** Well, we were not aware what council was going to say at that time.

**The Hon. KAYEE GRIFFIN:** Given the fact that certainly there was a letter that said that the development application did not comply with zoning in that particular area.

**Mr MOSCA:** Is this the letter from—

**The Hon. KAYEE GRIFFIN:** That was the letter from council to you, I think in June, from memory.

**Mr MOSCA:** From whom?

**The Hon. KAYEE GRIFFIN:** When the development application was lodged.

**Mr MOSCA:** The first DA? The second DA? I'm not sure. I don't remember seeing something—

**The Hon. KAYEE GRIFFIN:** Okay. Can we take one step back?

**Mr MOSCA:** Yes.

**The Hon. KAYEE GRIFFIN:** Just take the Committee through again what you see. The first DA is for the bulky goods.

**Mr MOSCA:** No, the first DA was for the same centre. But I did it under a change of use. I tried to use the change of use rules that you are permitted to use. You've got a DA for bulky goods. What we wanted to do, given that we felt and our planner felt the use we were proposing was also permitted under the same zoning, we just wanted a change of use. So you put in a form with the appropriate supporting documents and say, "We are proposing a change of use from bulky goods to warehouse clearance outlets, finished. There it is." This is in January. As it turns out what they do, they assessed it and they said, "Look, we don't think this constitutes a change of use. It is a new DA." It is not that the zone was not valid, but that the change was so great that it constitutes a new DA. That is when we submitted a new DA, I think in June, or whatever it was. That is how it worked.

**The Hon. KAYEE GRIFFIN:** So what you originally lodged was not, in fact, a complete new DA; it was looking at a change of use for something that was not really covered by the zoning at that time, is that correct?

**Mr MOSCA:** What we submitted was something that was not a covered in the approval we had for the zone. At all times we are thinking and our planner is saying, "The use you are proposing is permitted with consent on that zone."

**The Hon. KAYEE GRIFFIN:** What about what council was saying?

**Mr MOSCA:** Well, which part, I am sorry?

**The Hon. KAYEE GRIFFIN:** You just said that you lodged a DA. I assume that you are talking about what you considered the second development application that was lodged in June, is that correct? Is that the second one you are talking about?

**Mr MOSCA:** The DA in June was the full DA. The DA in January was the amended one, the change of use.

**The Hon. KAYEE GRIFFIN:** You said that you received a letter—it has already been discussed in evidence previously—from the planner who had carriage of your development application that what was being proposed in that DA was not covered in the local environmental plan.

**Mr MOSCA:** Right.

**The Hon. KAYEE GRIFFIN:** That was just after you lodged it. That is correct, is it not?

**Mr MOSCA:** I am not sure which letter you are talking about. I assume you are saying I got a letter saying, "We do not think this meets the guidelines." I would simply have got my planner to then respond and say what we do and then have someone look at it.

**The Hon. KAYEE GRIFFIN:** I am asking why you would consider it was a valid and complete DA if it did not fit in with what the local environmental plan for the area said?

**Mr MOSCA:** That is like saying, "Well, my planner says it fits. Their planner says on his evidence or his opinion it does not." I will let those two talk it over and decide. I cannot force an issue on that; it is a planning thing. So they obviously spoke and we responded to whatever letter he was sent and things would have kept going.

**The Hon. KAYEE GRIFFIN:** Would it not have concerned you originally when it was lodged with council that the proposed use was not within the LEP?

**Mr MOSCA:** No, because our planning advice was that it did, and it is not totally unusual for a planner to say, "Look I do not think so. I need to be convinced." They need to be convinced also. It is just a normal thing.

**The Hon. KAYEE GRIFFIN:** But the senior planner sent you a letter saying that it was not covered?

**Mr MOSCA:** I am assuming that this is the letter from Geoffrey Hunt?

**The Hon. KAYEE GRIFFIN:** Yes.

**Mr MOSCA:** We would have responded to that somehow and sent something back. It is the normal course of events to write back. It is still a valid DA because we have put it in with all our supporting documents saying, "Here is our valid DA. Please consider these facts. And they have got every right to respond and so do we."

**CHAIR:** Thank you, again, Mr Mosca, for your time today.

(The witness withdrew)

(Luncheon adjournment)

**ERIC HEAPY**, Chief Executive Officer, Adelaide Cemeteries Authority, affirmed and examined:

**CHAIR:** Thank you, ladies and gentlemen. I resume the public hearing of General Purpose Standing Committee No. 4 and I thank Mr Heapy for appearing today. I apologise for keeping you waiting while we were holding our other meeting. In what capacity are you appearing before the Committee—as a private individual? You are obviously not appearing in your capacity as—

**Mr HEAPY:** I was a former senior manager at Liverpool City Council.

**CHAIR:** If you should consider at any stage during your evidence that certain evidence or documents that 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 Legislative Council may subsequently publish the evidence if they decide that it is in the public interest to do so. Mr Heapy, do you have an opening statement to make to the Committee?

**Mr HEAPY:** No.

**The Hon. JOHN RYAN:** Mr Heapy, are you familiar with the evidence that was given to this Committee on 11 October 2004 by Mr Murray Douglas?

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

**The Hon. JOHN RYAN:** First of all, can I ask you: Do you have anything to say in response to any of it yourself before I ask you a specific question?

**Mr HEAPY:** Only that I was alerted to the evidence and read the statements by Mr Douglas and refute them totally. I never received any copy of any file note or neither discussed the matter with Mr Douglas at all.

**The Hon. JOHN RYAN:** All right. I just need to read you bits of it and get your response. Mr Murray Douglas was reporting a meeting, or a telephone call I think he received from Mr Frank Mosca, an architect who operates in the Liverpool area. He said that Mr Mosca put to him a number of propositions and then he said:

Now in my time in local government I've had a lot of people very subtly make comments about what is or is not a good thing and how it can or cannot be obtained—less in New Zealand, some in Victoria; it's a little more common in New South Wales; a little less subtle. But this is the first time anybody have ever said to me, "You do this and I'll do that." Never in my experience had I experienced that. I was completely nonplussed. I said, "Well, look, I'll have to ring you back to see where we're going to go on this." I said to him that we'd have to consider other options because frankly that's not a way of doing business. I then spoke to Gerard Turrisi and expressed my concern—I believe his office was right next door to me at that time—about the mixing of transactions. He advised me that the general manager had given him a new DA from Mr Mosca on the megacentre site and he, the general manager, indicated that he expected it to be processed within two weeks—that's your two weeks, Mr Ryan.

Then he said:

I also then spoke—this is June the 12th—to Mr Eric Heapy, the acting GM, and told him that I was concerned about the ethical position. I also rang Councillor Beuk, as the councillor in charge of major projects ...

Do you recall Mr Douglas drawing these matters to your attention in the fashion that he has described?

**Mr HEAPY:** No, not at all.

**The Hon. JOHN RYAN:** Could he have been mistaken? Can you make any explanation for what he said at all?

**Mr HEAPY:** No explanation whatsoever.

**The Hon. JOHN RYAN:** What was your role at the council at the time of the development?

**Mr HEAPY:** I was the Group Manager, Support, which meant that I looked after most of the administrative functions, such as administration, finance, IT, publicity, promotions, plus some external functions like libraries and the Casula powerhouse out-centre.

**The Hon. JOHN RYAN:** Then Mr Douglas went on to say about a personal note of his and Ms Hale, my colleague, said, "Mr Douglas, was it your practice to keep personal file notes? Most of the evidence we have had to date is where people have kept notes it has been part of council files." Mr Douglas answered, "No, it was not my practice but this was so astonishing, I did." I then asked him, "So you took it with you when you left the council?" Mr Douglas said, "Correct." Then I said, "And you did not return it to the council until you made this disclosure?" Mr Douglas said, "No, the disclosure was made in January. I was still working for council. It was made, as I indicated before, to the acting general manager." Would that have been you?

**Mr HEAPY:** Yep, possibly—I am not sure of the dates at the time but if Mr Brian Carr was absent from the council for any reason, I automatically assumed the role of general manager.

**The Hon. JOHN RYAN:** Then I said to him, "That was the time you presented it to Mr McCully, who is the current general manager?" And Mr Douglas said, "Previously, it had been given to Mr Heapy, a copy had been given to Mr Heapy at the time." I asked him, "Your file note?" Mr Douglas said, "Correct." Do you recall being given a file note from Mr Douglas about this matter at all around the dates that Mr—

**Mr HEAPY:** No, not at all.

**The Hon. JOHN RYAN:** Have you any idea what the file note is that he is talking about?

**Mr HEAPY:** No.

**The Hon. JOHN RYAN:** Do you know whether or not it was Mr Douglas' practice to keep file notes of this nature?

**Mr HEAPY:** I think from my observations of Mr Douglas he kept a lot of notes and a lot of correspondence dealing with matters that he would normally deal with.

**The Hon. JOHN RYAN:** Do you recall the Orange Grove matter being dealt with by the council?

**Mr HEAPY:** Not specifically. I was not at all involved in the project at all. I guess my awareness would have been on a couple of accounts. One, just as an individual and because I actually resided in the city, I did notice the—what I wasn't sure was a construction or a demolition at the time, but there was certainly a steel structure in place adjacent to the mega centre and I remember—I would hesitate to guess but about three years ago raising it with just an officer who was a planner what was actually occurring at that site and he mentioned to me that there was, I think he is said a retail outlet or something similar being constructed there. I had raised the issue because I had noticed that there had been no activity for such a long time. The only other involvement I would have had would have been as part of the executive team, I would have attended briefing sessions to councillors, so if they were being briefed about any matter such as a CBD development or any other major development, I would have been present at the briefing.

**The Hon. JOHN RYAN:** What was the role that Mr Douglas had on the council at the time that these events occurred?

**Mr HEAPY:** Mr Douglas was—he was initially—there were probably three components, I think, to Mr Douglas' involvement. The first, he was engaged as a private consultant on a fairly part-time basis to assist in managing some major projects particularly connected to the Oasis project. He was then actually recruited as the project manager of the Oasis development and subsequently also took over project managing major developments within the CBD.

**The Hon. JOHN RYAN:** Were you aware of a suggestion made about Mr Carr, your immediate superior, that he might have—and that is Mr Brian Carr, isn't it, just in case there is any confusion.

**Mr HEAPY:** Brian Carr.

**The Hon. JOHN RYAN:** Mr Brian Carr, were you aware of the suggestion that he had ordered this matter to be dealt with in two weeks, as was alleged by Mr Douglas?

**Mr HEAPY:** Only on reading the transcript.

**The Hon. JOHN RYAN:** Have you ever heard that allegation prior to it being mentioned by Mr Douglas?

**Mr HEAPY:** No, not at all.

**The Hon. JOHN RYAN:** Were you aware that Mr Douglas had made a protected disclosure to someone and made this complaint? Did that occur while you were at the council?

**Mr HEAPY:** No.

**The Hon. JOHN RYAN:** Did you ever have any reason to investigate this matter?

**Mr HEAPY:** No.

**The Hon. JOHN RYAN:** What would you have done if he had supplied you with a file note of the nature that he described?

**Mr HEAPY:** I would have said that it would have been very unusual for someone to supply me with a file note in any case and a matter such as this that would have been of such great concern, Mr Douglas would have been aware, as any other person within the council, that we had quite a strict procedure in terms of making a protected disclosure on those matters and, in fact, if it had been brought to me in that manner, I would have advised Mr Douglas to make a protected disclosure at the time.

**The Hon. JOHN RYAN:** Would you have regarded the matter as being serious?

**Mr HEAPY:** I certainly would have.

**The Hon. JOHN RYAN:** Would you have referred it to the Independent Commission Against Corruption?

**Mr HEAPY:** I would have referred it initially to our internal auditor, who was appointed as the council's protected disclosures officer. The process would be that he would report the matter to the ICAC and we would then receive advice in terms of what their process would be from there.

**The Hon. JOHN RYAN:** The allegations that Mr Douglas made appear to me, in my mind anyway, reasonably astonishing. Was he in the habit of making allegations of this nature? Was this within his character to make allegations of this nature?

**Mr HEAPY:** Certainly my observation of Mr Douglas was that he was a person who would go to great lengths to, I think, deflect issues away from himself and put the spotlight on others, so if there was an issue that he disagreed with or thought possibly could go wrong, it was certainly fed back to me by a number of employees over my time there that in fact he would make often critical comments about the general manager, in particular, because he was working directly to him, that he would disagree and that the general manager was wrong and he was right, et cetera, et cetera, and that was brought to my attention on a number of occasions.

There was also, I guess, a more probably demonstrable example where there was certainly a disagreement between Mr Douglas, our legal advisers and certainly Brian Carr about the commercial agreement in respect of public car parking, the provision of public car parking. Mr Douglas had a view that was contrary to anybody else's and was espousing that view in no uncertain terms to the council as a whole—and I was present when he did that. In fact, I made a correction to his statement on a couple of occasions and counselled him about it after because he was presenting such a negative attitude as if it was fact when, in reality, it was only his opinion. The matter got to the point where it was so serious that the general manager in fact obtained a QC's opinion, which disapproved Mr Douglas' views.

**The Hon. JOHN RYAN:** Was Mr Douglas in a position to be able to have any impact on the Orange Grove matter?

**Mr HEAPY:** I do not believe that he would have been involved in it at all because it wouldn't have been part of his role to be involved in DAs. However, he was involved with developments within the CBD, so if there was any con activity or interrelationships between a CBD development and the commercial arrangements that were taking place with the Oasis, he may have had some involvement, but from my understanding, the only connection between the two projects would have been, I believe from reading the statements and I was unaware of this before but, it was the same person that was dealing with, I think, the Orange Grove development and the proposed site for the new council accommodation.

**The Hon. JOHN RYAN:** Mr Douglas said that after he sent this file note to you, he said, "I sent it through to Mr Heapy. I spoke to Mr Heapy and then sent it through later." He says in his evidence a number of times—I just need to make the point, you do not recall receiving any file note of that nature whatsoever and you would say that there was no truth in what Mr Douglas said at all?

**Mr HEAPY:** Absolutely no truth.

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

**Ms SYLVIA HALE:** Mr Heapy, you said that Mr Douglas—and I think I have your words correctly—kept a lot of notes and correspondence on matters he was dealing with. Was it customary within the council if there was an inquiry about a development application, either internally or externally, that a notice of that inquiry or that conversation would be placed on a record?

**Mr HEAPY:** I think it would have been reasonably good practice that if you were dealing with a matter and you were dealing with that file in particular and you had conversations or you had meetings with individuals, certainly there would be records of those meetings and notations to that effect.

**Ms SYLVIA HALE:** It might have been good practice but was it practice that was followed, do you think, within the council?

**Mr HEAPY:** I believe so.

**Ms SYLVIA HALE:** You think it was—

**Mr HEAPY:** I believe it would be, yeah.

**Ms SYLVIA HALE:** So, had Mr Douglas prepared such a note one would have expected to have found it on the file?

**Mr HEAPY:** I think it would have been good practice. If I was Mr Douglas I would certainly have made the note on the file, if that incident had occurred. Certainly.

**Ms SYLVIA HALE:** So if such a note were made, since it is made in the course of one's employment it is presumably the property of the council rather than the employee, would that be right?

**Mr HEAPY:** Correct.

**Ms SYLVIA HALE:** So Mr Douglas has done the wrong thing by taking it with him, if indeed that is what he did, if there were such a file note?

**Mr HEAPY:** I would believe that the file note would be the property of council and it would be inappropriate for him to take it with him.

**Ms SYLVIA HALE:** Yes, considering it related to other employees of council about a matter of considerable public concern.

**Mr HEAPY:** Correct.

**Ms SYLVIA HALE:** And you say that the first you ever heard of the possibility of this pressure from Mr Brian Carr to have this development application approval very speedily was when you read it in the transcript?

**Mr HEAPY:** Yes.

**Ms SYLVIA HALE:** If there were matters like that—from your experience working with council there must be a lot of rumours or gossip or observations made—would you have expected that to have been a matter of some comment within council or not?

**Mr HEAPY:** I would have no doubt that that would have surfaced and if the matter was raised with the general manager in particular. I had a close working relationship with him in the basis that I would deputise if he was not there. I would hold regular briefing sessions with the general manager on issues that would come across the table or if he was going to be absent for a day or a week or whatever, he would certainly brief me on issues that were around.

As a matter of something of that nature, I believe it would have been quite appropriate that I would have been involved because it was no secret within the council that if there were issues to do with corruption matters or alleged corruption I was appointed on a number of occasions by the council itself, by resolution, to be the intermediary between the ICAC investigating officers and council's legal team. It was part of my portfolio in terms of pushing the changed management processes in terms of things like codes of conduct, policies and procedures relating to good governance.

**Ms SYLVIA HALE:** So if Mr Douglas had complained to you of this behaviour you wouldn't necessarily have mentioned it to the GM since presumably it reflected on the GM's behaviour but you would have referred it to another body.

**Mr HEAPY:** I would have made the report directly to the internal auditor, who was the protected disclosures officer.

**Ms SYLVIA HALE:** Is there a record of you making similar reports to the internal auditor?

**Mr HEAPY:** Yes. There would be at least one occasion, if not two, where employees had reported matters to me but were not willing to come forward and make the protected disclosure. I then made the protected disclosure on the basis that I then had the information.

**Ms SYLVIA HALE:** Thank you.

**CHAIR:** The Hon. Kayee Griffin.

**The Hon. KAYEE GRIFFIN:** Thank you, Madam Chair. Mr Heapy, how long did you work at Liverpool council?

**Mr HEAPY:** Six and a half years.

**The Hon. KAYEE GRIFFIN:** Were you always in the position of Group Manager, Support?

**Mr HEAPY:** No, I was initially recruited as Corporate Manager, Corporate Governance. I then actually transferred for about 18 months into Assets and Infrastructure as Group Manager, Assets and Infrastructure. We had a particular problem in terms of the engineering faculty and I was asked to move into that role and put some changes in place in terms of improving performance. At the conclusion of that I was then transferred into the position of Group Manager, Support.

**The Hon. KAYEE GRIFFIN:** Was it only after your appointment, or that position was made Group Manager, Support, that it was always the person in that position who relieved the general manager if he was away from council?

**Mr HEAPY:** When I first arrived there there was a position—a couple of restructures occurred in the first 6½ years—but there was a Group Manager, Organisational Services, Mr Roy Newsome, who, prior to my

arrival, was regarded as the deputy CEO, that would often take charge and act for the general manager. After his departure I was appointed as Group Manager, Support—that was the vacancy that he created—and effectively adopted that dual role of group manager and deputy general manager at the same time.

**The Hon. KAYEE GRIFFIN:** Did you have a local government career before this or was Liverpool council the first time that you were involved in local government?

**Mr HEAPY:** No, I had worked for approximately two years at the City of Tea Tree Gully as a Director, Client Services prior to my appointment at Liverpool.

**The Hon. KAYEE GRIFFIN:** How many times would you have relieved the general manager during your time as Group Manager, Support?

**Mr HEAPY:** There would have been I would say a couple of occasions—two or three occasions—when he was on leave. There would have been instances on a daily basis if he wasn't there I automatically assumed the delegated authority. That would have occurred on a number of occasions. There was a fairly lengthy period of time when the Oasis project was being taken back under control from the Bulldogs saga and the general manager was seconded into a position of general manager of the foundation, and for that period of time—which would have been, as a rough guess now, probably 16 or 17 weeks—I would have assumed the role of general manager as well.

**The Hon. KAYEE GRIFFIN:** Apart from the Oasis project, when you relieved the general manager did you ever deal with other town planning or development assessment issues?

**Mr HEAPY:** Very, very rarely would I have even been consulted on them. The council operated on a fairly broad system of delegated authority so that, from memory, only about probably less than 2 per cent of DAs would have actually gone before council. In the event that they were advertised and there were objections, they were then referred to an independent hearing and assessment panel. So my involvement basically was zero. I don't recall anybody ever, other than a briefing perhaps about a particular issue but not specifically—the only recollection I can have in terms of the gentleman who was discussed earlier mentioned by Mr Ryan was Mr Frank Mosca. I do recall a telephone call from Mr Frank Mosca—it would have probably been about 2½ or three years ago. I remember it specifically because he was quite irate and he was generally talking about the council's systems and speed of processing DAs and that he thought that the systems were—I think his words were—"broken" and that he had a number of conversations with Mr Turrisi about the procedures and the processes not being effective but he thought that Mr Turrisi wasn't listening to him.

**The Hon. KAYEE GRIFFIN:** Was that the only personal contact you had with Mr Mosca?

**Mr HEAPY:** I had not actually met him on that occasion. I met him on one other occasion.

**The Hon. KAYEE GRIFFIN:** You said that you were involved in the executive team of council. How often did the executive team meet?

**Mr HEAPY:** Once a fortnight.

**The Hon. KAYEE GRIFFIN:** Were there discussions at the executive team meetings in relation to development issues at Liverpool?

**Mr HEAPY:** There often were, yes.

**The Hon. KAYEE GRIFFIN:** Were they substantial issues or just individual ones?

**Mr HEAPY:** Generally they would be to inform the executive team as a whole in terms of progress on matters, unless an individual may have been seeking a bit of guidance about maybe how to move an issue forward in negotiations or whatever with a developer.

**The Hon. KAYEE GRIFFIN:** Were there any discussions about Orange Grove at any of those executive team meetings?

**Mr HEAPY:** I can't specifically recall.

**The Hon. KAYEE GRIFFIN:** So you don't recall whether that particular issue came up.

**Mr HEAPY:** No.

**The Hon. KAYEE GRIFFIN:** Even in terms of the proposed changes to the LEP in relation to the designer outlet?

**Mr HEAPY:** Not that I can recall. I'm not sure whether that was a matter while I was still there. I left the council in June 2003. I'm not sure of the timing on that one, I'm sorry.

**The Hon. KAYEE GRIFFIN:** When Mr Ryan was asking questions before I think you said you also had contact with the councillors who were involved—my understanding is, and I think it's been in evidence previously, that individual councillors had responsibility for certain parts of council processes.

**Mr HEAPY:** Correct.

**The Hon. KAYEE GRIFFIN:** Did you go to all the briefings that councillors had or did you go to briefings that were given to councillors in relation to development processes, new developments or developments that were perhaps a little bit out of the ordinary?

**Mr HEAPY:** Yes, I certainly did. I would have attended, I think, all of the briefings. Unless there was the reason that I was away interstate or absent on leave, I would have attended all the briefings.

**The Hon. KAYEE GRIFFIN:** Do you recall any of those briefings when Orange Grove was mentioned?

**Mr HEAPY:** Not specifically about Orange Grove, no.

**The Hon. KAYEE GRIFFIN:** So you don't recall anything. Do you know much about the advertising policy in relation to development applications?

**Mr HEAPY:** Not specifically, no. I'm aware that there was a requirement to advertise developments and also erect signage on development sites but I was not familiar with the total process, no.

**The Hon. KAYEE GRIFFIN:** So you really don't have any recollection in relation to any specific discussions that you either may have been involved in or meetings that you were at that talked about the issue of the development application for Orange Grove and the change of use.

**Mr HEAPY:** Yes, I do recall one instance, which was a conversation with Mr Gerard Turrisi. Mr Turrisi came to me in, I guess, a fairly frustrated mood. He was fairly disappointed that the officer responsible for handling the development application for that particular development have forgotten to advertise the matter and that he was now correcting it. He was frustrated with that in terms of, I guess, the overall reputation of his department. That wasn't unusual for Mr Turrisi to do that occasionally. He had been a senior manager for, I guess, a fairly short time and he and I had a fairly loose mentoring arrangement where if he had issues he would seek my advice about how he would go about reviewing those procedures and what would be the best way to try to introduce some efficiencies into his organisational area. That wouldn't have been unusual for me to discuss that with him. But I do recall that instance because I remember how frustrated he was that that had failed to happen. I think I remember him saying that he was concerned because he knew that Frank Mosca would make a lot of noise and so, rather than have the officer write directly to him, he would write the letter personally to try to proactively extinguish Frank's anger.

**The Hon. KAYEE GRIFFIN:** But you have no knowledge of Mr Douglas giving written evidence to the council in relation to a protected disclosure that is now with ICAC regarding Mr Mosca and Mr Gazal making specific threats about the Orange Grove development and the new council chambers?

**Mr HEAPY:** No, not at all.

**The Hon. KAYEE GRIFFIN:** And that Mr Douglas did not talk to you about Mr Gazal's threat?

**Mr HEAPY:** No.

**The Hon. KAYEE GRIFFIN:** And, in relation to that, that the concern was that if the Orange Grove proposal or the approval for Orange Grove didn't go through the deal for the new council chambers would be off?

**Mr HEAPY:** No.

**The Hon. JAN BURNSWOODS:** Have you been contacted by ICAC?

**Mr HEAPY:** Yes, I have, and I've made a statement.

**The Hon. JAN BURNSWOODS:** And you may be appearing, presumably, in due course. Following on from what Ms Griffin has said, there seems to be quite a lot of evidence around about what Mr Douglas said and wrote around that period of June 2002. But you seem very unaware of those things.

**Mr HEAPY:** That's true, yes. I'm not aware at all of those matters.

**The Hon. JAN BURNSWOODS:** You seemed to suggest before that perhaps there was something about Mr Douglas and his own character or behaviour. Are you aware, for instance, that the Committee has also had evidence from a senior planner, Chris Weston, that he knew on the 6th of June 2002 that the Orange Grove development should not be approved?

**Mr HEAPY:** Only from reading the transcript.

**The Hon. JAN BURNSWOODS:** So if other people are giving evidence of this kind does that affect your view of whether or not Mr Douglas is sort of one out?

**Mr HEAPY:** It would affect my view in respect of, I think, if the matter of which Mr Douglas makes great pains about it being such a significant issue that he had great concerns about, he would have been as aware, as I mentioned earlier, as anybody else that there was a very strict and correct procedure to take: that was, to make a protected disclosure at the time. It would have been most unusual for anybody to give me a file note and he certainly didn't give me a note. So I had no awareness whatsoever of that issue.

**The Hon. JAN BURNSWOODS:** But Ms Griffin has just mentioned in her question that Mr Douglas has given us evidence that he did provide written evidence to Liverpool council and that is a protected disclosure that is now with ICAC.

**Mr HEAPY:** Yes. I have not seen that protected disclosure. I'm not sure of the date on which he submitted the protected disclosure.

**The Hon. JAN BURNSWOODS:** We would not expect that you had, I guess. Given that Mr Douglas spoke to you but you don't accept his evidence in relation to you, he wrote to Mr Turrisi. His evidence is backed up by Mr Weston and the current general manager has been aware of some of the threats that were made. There seems to be a certain amount of—

**The Hon. JOHN RYAN:** The current general manager hasn't done anything of the sort!

**The Hon. JAN BURNSWOODS:** There seems to be a certain amount of corroboration of the evidence Mr Douglas has given this Committee.

**The Hon. JOHN RYAN:** There's no corroboration.

**Ms SYLVIA HALE:** Whatsoever.

**Mr HEAPY:** If those matters were brought to other people's attention they certainly weren't brought to my attention. I can only give you a statement in respect of my knowledge, and I had no knowledge of the incident at all.

**The Hon. JAN BURNSWOODS:** Well, it's not just "an" incident or "the" incident. There are notes—Mr Douglas says he's made notes of his conversations with you and his conversation with Mr Turrisi. He made that note around the time of the threats being made by Mr Mosca and Mr Gazal. Mr Douglas has got a certain amount of corroboration for what he has said to this Committee, and presumably to ICAC.

**Mr HEAPY:** I am making this statement under oath that Mr Douglas did not inform me of those issues, nor did he give me a note.

**The Hon. JOHN RYAN:** I have just checked Mr Douglas's transcript a bit further and he says in his transcript that he forwarded the information to you, that is, the file note to you, by internal mail, addressed to you personally. Did you receive that file note through the internal mail?

**Mr HEAPY:** No.

**The Hon. JOHN RYAN:** Is there a chance that it might not have been given to you?

**Mr HEAPY:** If any of my internal mail would have been opened by my personal assistant at the time—and she would certainly have known my involvement in matters such as anything to do with something as serious as that—that would have been brought to my attention not only by, I guess, Mr Douglas as he was doing it, but it would have been brought to my attention by my PA as well.

**The Hon. JOHN RYAN:** In any event, the two things that Mr Douglas said that he did to bring it to your attention in particular—and you, in the absence of Mr Carr—was that he met with you, and you say that the meeting did not happen; and he sent you a file note which you have not received, and you think in the normal course of events that may not have occurred.

**Mr HEAPY:** Mr Douglas certainly did not discuss the matter with me, nor did he, as far as I am aware, send me a file note. I certainly did not receive a file note.

**The Hon. JOHN RYAN:** So what do you make of what Mr Douglas said?

**Mr HEAPY:** I believe it is untrue.

**CHAIR:** Thank you very much for your attendance here today. We appreciate your time.

**Mr HEAPY:** Thank you.

(The witness withdrew)

**GERARD ANTHONY TURRISI**, Director, GAT and Associates, P.O. Box 96, Haberfield, on former oath:

**CHAIR:** Thank you, Mr Turrisi, for being here again today.

**Mr TURRISI:** Pleasure.

**CHAIR:** Your previous oath or affirmation applies for this hearing as well.

**Mr TURRISI:** Yes.

**CHAIR:** You have been invited back here. Have you got any statement to make?

**Mr TURRISI:** No.

**CHAIR:** Are there any questions?

**The Hon. KAYEE GRIFFIN:** Mr Turrisi, Mr Douglas gave evidence that he had discussed with yourself and other senior members of the council staff about the threat that he received, concerning that if the Liverpool council did not approve Orange Grove then the proposal for council's new council chambers—that the deal was off. Do you recall any conversations with Mr Douglas in relation to that, or his concerns, that he expressed to you those concerns?

**Mr TURRISI:** No.

**The Hon. KAYEE GRIFFIN:** So there was never any discussion between yourself and Mr Douglas about anything in relation to either the proposal to the new council chambers or the issue of the development application for Orange Grove?

**Mr TURRISI:** There was no linkage at all put to the two of them. As I have previously said, the discussion I had with Mr Douglas was a concern I had about the economics of the facility on the CBD, which I expressed to him in the early stages, and then obviously we discussed matters in the CBD generally, but not that there was any linkage between the two.

**The Hon. KAYEE GRIFFIN:** From the evidence that this Committee has had over several months, there seems to be a lot—in terms of the way Liverpool council was structured particularly in relation to its planning and development assessment sections—there does not seem to be a lot of discussion between senior staff and planners in relation to a number of these issues. Was it the norm for not a lot of discussion to take place in relation to developments that either were quite substantial—apart from the Oasis project, of course, which we can leave aside—or that there were issues, in relation to particularly the Orange Grove one, where the development application was not advertised in a timely fashion after it was received, or any of those other things? There does not seem to have been a lot of discussion between yourself as a senior manager and other people within that area. Did people just do their own thing, or were there serious discussions in relation to a lot of these issues?

**Mr TURRISI:** Once again, with the scale of development and the number of applications we got on the way we were structured, my role was really to deal with the corporate issues, so unless specific issues were brought to my attention, I certainly would not have had the, you know, that involvement from a day-to-day perspective of an application.

**The CHAIRMAN:** Order! I just interrupt you because there is some problem with the microphones. I just need to switch them off and then switch them back on again. I am sorry about that, Mr Turrisi. You may proceed.

**The Hon. KAYEE GRIFFIN:** Mr Turrisi, surely they would have been discussion if a development—surely you would have been involved in discussions if a development application had problems, such as the Orange Grove one, as I said, where it was not advertised or where it did not conform with what the LEP said.

Surely you would have had discussions, as one of the senior managers, with the people who were dealing with these applications, or you would have known about it.

**Mr TURRISI:** I mean, I have already given evidence now three times and I have explained to the Committee on those three occasions that at different stages I was brought in and out of the application, depending upon the circumstances; so, yes, there were components of the application that I was aware of, and I have already given evidence on that in terms of how that occurred and what I had said.

**The Hon. KAYEE GRIFFIN:** And you recall that Mr Weston sent you a memo dated 6 June in relation to the Orange Grove development application.

**Mr TURRISI:** Yes.

**The Hon. KAYEE GRIFFIN:** That it could not be approved within the two-week period?

**Mr TURRISI:** That is correct.

**The Hon. KAYEE GRIFFIN:** Where did the two weeks come from—that proposal for two weeks for it to be approved?

**Mr TURRISI:** Again, as I have given evidence—I have lost count so many times in terms of these—as I said to you previously, it was not uncommon for me to get requests as to how long applications would have taken, and it would not have been unreasonable for me to ask Mr Weston that question, which I did, and that was the response, and that was the end of it.

**The Hon. KAYEE GRIFFIN:** But if you did not know about all the applications that came in, why would someone specifically ask you about it in terms of the time frame?

**Mr TURRISI:** Because I had the applicant at the time ringing me up over the situation, as I said—again—that the application came back in the February period and basically it came around the May period when the officers became aware that we could not deal with it as an amended application and it required to be a development application, and that was where that period of the course of events occurred as to the question as to whether or not the matter could be dealt with, in view of the fact that it already was with the council for a period of four to five months prior, as an amended application.

**The Hon. KAYEE GRIFFIN:** But then it had to be—according to evidence today, Mr Mosca said that you had to lodge a totally new development application.

**Mr TURRISI:** That is correct, but all the supporting documentation, which was with the amended application, was already before the council, so the question was asked whether it could be dealt with, and the response was subsequently asked of the officers, and the answer was no; and then it subsequently took another five months for the application to be determined. I just feel like I keep telling the Committee, with due respect, the same thing every time I am here.

**The Hon. JOHN RYAN:** Can I take you through some of the evidence given to us by—first of all, are you familiar with the evidence given by Mr Douglas to this Committee and others?

**Mr TURRISI:** In part. I have not read the transcript, no, not in full.

**The Hon. JOHN RYAN:** I might need to be put to you a couple of bits of it and get you to comment on some of it. But Mr Douglas made a couple of important comments about evidence that involved yourself. Mr Douglas said to this Committee, after he had received a phone call from Mr Mosca in June, "The DA had not been dealt with at the time, it was still in council being processed or whatever was happening. And I was not involved in this DA whatsoever. It was not my game. I had no responsibility at all. Subsequently, I spoke to Mr Turrisi a couple of times afterwards, because Mr Turrisi was genuinely worried about this business—not so much what I told him but whether he should exercise the discretion in respect to the Act." Do you recall expressing any doubts you had concerning this matter to Mr Douglas, that is, the Orange Grove matter?

**Mr TURRISI:** No. Look, the only discussions I had with Mr Douglas regarding this was at the time I was concerned about what impact the operation would have on the CBD from a retail perspective, and I indicated to Mr Douglas that I had some concerns, unless it could be demonstrated otherwise, that I could not see why we should be approving the application. That was the only conversation I had specifically with Mr Douglas regarding Orange Grove Road.

**The Hon. JOHN RYAN:** Further, Mr Douglas said, "Gerard was of the view"—I presume he means you—"that if he could find that," basically he means evidence, "to support that it would not affect the CBD, then he would probably allow the zoning to change, the one" thing "that I" could "say is just inconceivable for any senior officer to allow" it to go "through. Certainly, if you were going to allow it" to go "through, you would have to put the insurance of the council taking that decision. You" should " ... never have done it under delegation." Then he goes on to refer to you and he says, "Gerard and I got on pretty well, but after it happened I remember him sitting in my office saying, 'I hope I have done the right thing.' My view was that he was under enormous pressure from external parties." Do you remember the incidents that he is referring to where you were sitting in his office saying, "I hope I have done the right thing."?

**Mr TURRISI:** No.

**The Hon. JOHN RYAN:** Do you remember feeling that you were under enormous pressure from external parties?

**Mr TURRISI:** I was put under no pressure at any time in terms of that application, nor did I put any pressure on any officer, either, in the council.

**The Hon. JOHN RYAN:** He says on another occasion, under " ... pressure from Mr Mosca in particular. I remember Mr Turrisi saying, 'Mosca has gone ballistic', I remember the wording, when he found out that Chris Weston was not going to support this. I recall Mr Turrisi saying to me, and this is where I" came "back" to "it after June 12, if he could get" it, that is "Turrisi, an economic study to say it would not affect the CBD he is likely to approve it." Do you recall saying to Mr Douglas that Mosca is ballistic? Do you recall that conversation?

**Mr TURRISI:** I do recall at the time, you know, Frank was quite distressed at the time that, you know, we decided to call for the application to be a development application, and as I said previously, I do recall that at that time too I was raising some concerns about the economic side of it, but as I have just said, at the end of the day, I am not an economic expert, and the view I took through the officers was that they need to submit an economic report; I wanted it independently reviewed and if the report comes back positive, who am I to question, in an area in which I do not have the expertise. But my initial instinct was that I wanted to make sure that that issue was assessed properly because that is what I saw from the geniality perspective as being probably one of the key issues.

**The Hon. JOHN RYAN:** By inference, Mr Douglas seems to be saying that you were aware that Mr Weston had made some disparaging comments about this development. He says, "But when he found out"—that is, you, although, I am sorry, I am not exactly sure what Mr Douglas meant; he probably means that Mr Mosca had found out that Chris Weston was not going to support this—were you aware that Mr Weston was not supporting this development?

**Mr TURRISI:** Not that I am aware of, no.

**The Hon. JOHN RYAN:** You know that the letter that the Committee has referred to many times?

**Mr TURRISI:** Yes.

**The Hon. JOHN RYAN:** Composed by Mr—surely you aware of the contents of that letter, are you not?

**Mr TURRISI:** Certainly in the last few months I have become very familiar with it, yes.

**The Hon. JOHN RYAN:** Were you aware of it then?

**Mr TURRISI:** As I gave evidence previously—at the time, not until I saw the memo that I could recall that I actually saw the memo, and I have subsequently had a copy and I think I may acknowledge here that I have made notations on the bottom of the memo. But at the end of the day, as I have explained, with the amount of applications, the amount of documentations which go past my desk, I do not remember every piece of document. But, again, if you look at the letter which Mr Hunt subsequently sent on 13 June, all the issues which were in Mr Weston's memo, including the notations which I made on the bottom of that memo, including the additional notations that Mr Weston made on the bottom of that memo, appeared on the letter which went to the applicant on the 13th, asking for all this information.

**The Hon. JOHN RYAN:** Mr Douglas seemed to be strongly of the view that you knew Mr Weston was opposed to this project and that you had told him that Mr Weston was opposed to the project. Is that correct?

**Mr TURRISI:** No.

**The Hon. JOHN RYAN:** Then, in reference to the pressure that you might have been under, Mr Douglas went on to describe what that pressure was like. I asked him, "How would Mr Mosca be able to put" pressure on "Mr Turrisi". Mr Douglas replied, "I could get you every planner who has ever been in Liverpool to tell you what sort of pressure Mr Mosca puts you under."

I then asked him, "It is only going to be phone calls. It is hardly putting your job on the line." Mr Douglas then went on to say, "If Mr Mosca does not get what he likes, it goes up the hierarchy. If he does not get it out of the officers—and remember this was actually put down to Turrisi from the general manager—it goes to the general manager and if he does not get that he will go to Councillor Beuk. I do not know if you have had Councillor Beuk here. Councillor Beuk is a very powerful councillor—or was. He controlled the caucus. You are either in the team or outside the team with Councillor Beuk. He was very, very powerful." Did you ever feel under pressure from Councillor Beuk or from Frank Mosca?

**Mr TURRISI:** Never.

**The Hon. JOHN RYAN:** So that description that Mr Douglas gave is not one that you would have described?

**Mr TURRISI:** No, I have never been put under any pressure by those two gentlemen, or by anyone while I was at the council. I have always made all my recommendations to the council based on what I believe is the right thing for the community.

**The Hon. JOHN RYAN:** The other thing that Mr Douglas said, and it was inferred in the comments I just read to you, that this matter was handed to you by the general manager and the general manager instructed you to process this within two weeks. Did that happen?

**Mr TURRISI:** No, I was never instructed by the general manager.

**The Hon. JOHN RYAN:** So it is untrue to say that the general manager handed you information with regard to the Orange Grove matter and said, "Process this in two weeks"? You flatly deny Mr Murray Douglas' allegations that it must be approved in two weeks?

**Mr TURRISI:** In the time I was the corporate manager there and Mr Carr was the general manager, at no stage did he ever direct me to assess any application at any time period.

**The Hon. JOHN RYAN:** I will just read you some additional evidence from Mr Douglas. I asked Mr Douglas, "Are you absolutely certain that Mr Turrisi referred to Mr Carr?" Mr Douglas said, "I am." In referring to that, that is referring to the application from Gazcorp. I might have to go back just a bit further. I said to Mr Douglas, "I am just saying to you, is there anything that you know of that would make it certain, is there any other evidence that you have to make you believe Mr Turrisi's allegation that the general manager told him to approve this in two weeks? Is there anything that you have that you can show the Committee that that was actually happening?" Mr Douglas said, "No." Then I said to him, "Are you absolutely certain that Mr Turrisi referred to Mr Carr?" Mr Douglas said, "I am." Then I went on to ask, "Are you absolutely certain that he told you that Mr Carr had told him it must be approved in two weeks?" Did you ever say to Mr Douglas that you had been given the Orange Grove matter and that Mr Carr had insisted that you process it in two weeks?

**Mr TURRISI:** No.

**The Hon. JOHN RYAN:** You never said that to Mr Douglas at any time?

**Mr TURRISI:** I would have no need to. I mean, he just wasn't involved in applications for me to consciously go over to see Mr Douglas and advise him of that.

**The Hon. JOHN RYAN:** I then said to him, "Do you recall what Mr Turrisi said about that proposition?" And Mr Douglas said, "He had not come to any view as to whether he would exercise his discretion on the application and in any event other information was required." I asked him, "I guess we need to get clarification of that matter. You are saying to the Committee that Mr Turrisi was giving serious consideration to approving it within two weeks according to the general manager's request to him?" Mr Douglas replied, "I cannot confirm what was in Mr Turrisi's mind. He simply said that he had been asked to process it within two weeks or expected to process it within two weeks. He had at that stage come to no firm conclusion as to what decision he would come to." Do you recall having any discussion with Mr Douglas that would lead him to the conclusions that he outlined to the Committee?

**Mr TURRISI:** No, not directly. I am not aware of any discussions I had with Mr Douglas specifically on that issue at the time.

**The Hon. JOHN RYAN:** So at no time did Mr Carr, the general manager of Liverpool City Council, ever tell you that the Orange Grove matter was to be processed within two weeks?

**Mr TURRISI:** He was never given a directive, no.

**The Hon. JOHN RYAN:** Did Mr Carr normally get involved in development application or development consent matters?

**Mr TURRISI:** Mr Carr would, at times, get people ringing him as the general manager because, again, an applicant or an objector was concerned about maybe having something dealt with and Mr Carr would call me in from time to time and ask me questions, "Look, I've had an inquiry about this. Can you fill me in what the situation is?" because he had to respond back. Outside of that he never went out of his way to ask me specific questions.

**The Hon. JOHN RYAN:** Did he ever give you instructions based on what should happen to a development application in terms of whether it should be approved not?

**Mr TURRISI:** No, never.

**The Hon. JOHN RYAN:** Would that have been appropriate for him to do that?

**Mr TURRISI:** Inappropriate.

**The Hon. JOHN RYAN:** Would you have noticed it if it had occurred?

**Mr TURRISI:** I certainly would have, and I would have felt extremely uncomfortable.

**The Hon. JOHN RYAN:** And you can say to the Committee that at no time did that ever occur in regard to this?

**Mr TURRISI:** Never.

**The Hon. JAN BURNSWOODS:** Mr Turrusi, I am just looking at an application that came in from Mosca Pserras partnership in February 2002, which is headed "Application to modify a development consent". Are you aware of that application?

**Mr TURRISI:** Only through the inquiry it has become apparent, yes.

**The Hon. JAN BURNSWOODS:** In the section headed "give full details of changes to development consent" what is written in is "conversion into clearance outlet centre". I gather this may or may not have been the first of the many attempts to get the outlet centre operating, but I gather the council rejected this one, is that the case?

**Mr TURRISI:** What I understand is that was the application, which was subsequently requested to be converted into a development application.

**The Hon. JAN BURNSWOODS:** So, what, on the grounds that it was bigger, greater than an application to modify a development consent?

**Mr TURRISI:** From what I understand, the position of the officers was that they felt it was not appropriate to deal with it under a modification. It did not fall under the appropriate test under the Act under modifications.

**The Hon. JAN BURNSWOODS:** Therefore the council asked Mr Gazal and Mr Mosca—

**Mr TURRISI:** To lodge a development application.

**The Hon. JAN BURNSWOODS:** And that is a development application that came in in June 2002.

**Mr TURRISI:** That is correct, as far as understand, yes.

**The Hon. JAN BURNSWOODS:** So he would have been, in your recollection, the officer dealing with this application? Did you have anything to do with it?

**Mr TURRISI:** Without going through the files, no, I could not tell you off the top of my head, no.

**The Hon. JAN BURNSWOODS:** But you, personally, did not—

**Mr TURRISI:** I, personally, would not have been involved in it, per se, other than unless one of the officers came to speak to me, and I do not clearly recall being involved in a decision that it had to be a development application other than once the decision was made I was advised that that decision was made by officers.

**The Hon. JAN BURNSWOODS:** In terms of the hierarchy, in terms of the planning people, at what level would that decision have been made?

**Mr TURRISI:** That would have more likely been done at a senior level, a senior planners level, with probably line manager.

**The Hon. JAN BURNSWOODS:** We have asked, I know, you and others from the council before about what sometimes struck us as an odd sort of series of delegations. It was surprising to us that the councils, for instance, or some of them said that they did not know about the Orange Grove development application that came in in June 2002. So when you say "senior", what do you mean?

**Mr TURRISI:** Well, it would have been basically a decision more than likely managed by the senior development planner or, alternatively, discussions with his manager.

**The Hon. JAN BURNSWOODS:** And those people were who?

**Mr TURRISI:** Once again, I do not recall back in February 2002 who that may have been.

**The Hon. JAN BURNSWOODS:** But you recall someone telling you?

**Mr TURRISI:** I recall because that was at the time when Mr Mosca came to me quite stressed that it took us so long to decide from February to the May period to request him to convert it into a development application, so that is why I do recall that event.

**The Hon. JAN BURNSWOODS:** So Mosca was concerned about the delay from February in determining that it could not be dealt with as an application to modify?

**Mr TURRISI:** That is right, yes.

**The Hon. JAN BURNSWOODS:** Does that throw some light on all of the evidence we have had about the pressure to determine the DA in two weeks?

**Mr TURRISI:** No. Well, I have already gone through this. I have already given evidence on that point. I am sorry, I am not going to keep repeating myself. I have answered it.

**The Hon. JAN BURNSWOODS:** I am just puzzled or interested, I suppose, rather than puzzled. You are saying that Mr Mosca was upset that the application to modify the development consent, which came in February, was not determined until May that it should actually be done as a complete new DA. It just seemed to me that perhaps if Mr Mosca was angry and was presumably making phone calls and so on and telling people at council that he was angry that maybe that would throw some light on the pressure for the June one to be determined within two weeks.

**Mr TURRISI:** There was no pressure, as I have explained.

**The Hon. JAN BURNSWOODS:** There might have been pressure that you were not aware of?

**Mr TURRISI:** I can only advise you pressure I was put under, and I was put under no pressure, period.

**(The witness withdrew.)**

**KATHERINE KEATING**, Policy Officer, Office of the Minister for Infrastructure and Planning, and Minister for Natural Resources, Level 33, 1 Farrer Place, Sydney, sworn and examined:

**CHAIR:** Thank you for being here, Ms Keating. In what capacity are you appearing here today?

**Ms KEATING:** As a staffer for the Minister for Infrastructure and Planning, and Minister for Natural Resources, by invitation, of my own volition.

**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 itself may subsequently publish the evidence if they decide that it is in the public interest to do so. Ms Keating, do you have an opening statement to give to the Committee?

**Ms KEATING:** I do.

**CHAIR:** You may proceed to give that.

**Ms KEATING:** Thank you very much. Since April 2003 I have been employed by the Office of the Minister for Infrastructure, Planning and Natural Resources, Mr Craig Knowles. I first met Nabil Gazal junior in approximately 1997 through mutual school friends. I met Nicole Gazal in the year 2001, possibly 2002. I have had a reasonably close friendship with Nicole Gazal over the last two years. Prior to the opening of the Orange Grove Centre at Liverpool Nicole Gazal mentioned to me that Minister Knowles had accepted an invitation to open the centre. At the time she mention this she knew that I was working in the Minister's office. I was allocated the task of attending the opening of the centre with the Minister. I was aware that Nabil junior had been working closely with his father on a shopping centre project. I assumed it was the Orange Grove Centre. I contacted Nabil junior and obtained information from him regarding the centre. This represents the sum total of my professional involvement in the Orange Grove issue.

Throughout January and February 2004 I had seen Nabil Gazal junior socially on a number of occasions. Throughout that period there was no mention of the Orange Grove Centre—not to him by me or me to him. On a date which I cannot recall but which I believe was between January and March 2004 I had a conversation with Nicole Gazal. During that conversation she mentioned to me that her father's company was being sued by Westfield. She seemed taken aback by the fact that Westfield was taking legal proceedings that were adverse to her father's interests yet at a personal level the Chairman of Westfield, Mr Lowy, who was known to him, had not discussed the matter with her father.

I also recall having a conversation with Nabil junior in which Mr Frank Lowy was mentioned. I cannot recall when the discussion took place other than earlier this year. It was, however, after the discussion with Nicole Gazal referred to in the preceding remarks. I do not remember who initiated the conversation, and I have little recollection of what discussed. But I do recall Nabil junior was quite angry about the litigation involving the Orange Grove Centre and he was very unhappy with the way the legal proceedings were going. Coincidentally, I had seen Mr Frank Lowy in the foyer between the Governor Macquarie and the Governor Phillip towers earlier that day. At the mention of Westfield I was prompted to mentioned to Mr Gazal that I had seen Mr Lowy in the foyer earlier that day. It was a passing comment only. At the time I had no reason to believe that the Orange Grove Centre was a confidential issue. I cannot recall whether he made any response.

On the day that I had the discussion described in the preceding remarks I had in fact seen Mr Frank Lowy in the foyer between the Governor Macquarie Tower and the Governor Phillip Tower. It was a brief discussion of about a minute or so. I immediately recognised Mr Lowy but I was not sure that he remembered me. I approached him and an exchange took place. I cannot remember precisely the words that were exchanged but it was to this effect. I reintroduced myself to him. He asked me how I was. I told him that I was well and volunteered that I was working in the building in the office of Minister Knowles. I recall that he was pleased that I had a job working for the Government. I briefly mentioned his purchase of a building in Bligh Street, Sydney, which I knew of as it had been occupied earlier as my father's office. He confirmed that he had purchased the building and mentioned his intention to use the premises as the offices of the Lowy Foundation. I ended the conversation by saying that I just wanted to take the opportunity to say hello, and we went our separate ways.

Mr Lowy did not volunteer to me what he was doing in the building, nor whom he was seeing or the subject matter of his business. I did not ask Mr Lowy what he was doing in the building. It would have been presumptuous of me to have done so, and I would not do that. There was absolutely no mention of the Orange Grove Centre or anything in relation to it. Nor was there any mention of the Government's so-called Centres Policy or planning policy during the brief discussion that I had with Mr Lowy.

Towards the end of March or possibly early April after the media reports had started to emerge concerning the Orange Grove Centre I realised that it had become a political issue. I made a point of telling Mr Emilio Ferrer, the deputy chief of staff of my office, of my personal connection with the Gazal family. I suggested that I not be involved in any way with any further matters concerning Orange Grove, and I have not been. Between April and July 2004 Nicole Gazal made several attempts on social occasions to discuss the Orange Grove issue with me. On each occasion that it was raised I made clear my position of conflict and refused to discuss the matter with her.

On 24 April I attended a birthday party at which Nabil junior was present. I had not seen Nabil junior for some time as he had been overseas. He greeted me with a stream of obscenities. I was extremely shocked and put out about the exchange. He was not in control of himself, and it was very embarrassing as he yelled abuse, refusing to calm down. On 10 August 2004 I ran into Nicole Gazal. I told her of the exchange between myself and her brother at the birthday party. I told her how inappropriate and unjustified I believed his behaviour had been, and I informed her that in the circumstances I thought it best we had no further contact. I have had no further contact with the Gazal family since that discussion. I am ready to take questions now if you want.

**CHAIR:** Thank you. Do you have copies of that statement available?

**Ms KEATING:** Yes, but I do not want to provide them.

**CHAIR:** Sorry?

**Ms KEATING:** Yes, I have notes but do I have to provide them? Am I obliged to provide them?

**The Hon. JOHN RYAN:** Not your notes but were you reading from a typed statement?

**Ms KEATING:** Yes. They are notes. I have a copy of it but do I have to provide them? Am I obliged to provide it?

**CHAIR:** It would help Committee members if they could take a copy. They will return it to you.

**Ms KEATING:** All right then.

**The Hon. PETER PRIMROSE:** Not if you have notes on it, if there are any personal notes on it. Are there personal notes on it?

**Ms KEATING:** I think I made a mistake in a remark I just said. I think I said that the birthday party where Nabil yelled at me was on 24 April when in fact it was on 24 July, so I just want to put that in as a change in case I made that mistake.

**CHAIR:** Do you have a clean copy of it?

**Ms KEATING:** Yes, I do.

**CHAIR:** We will get copies of that. Are there any questions?

**The Hon. JOHN RYAN:** Yes, Madam Chair. Ms Keating, you have already mentioned that you work in the office of Mr Knowles. Could you outlined to the Committee what your role in the office of Mr Knowles is?

**Ms KEATING:** I am a policy officer in Mr Knowles' office. My roles deviate and have done so since I started to work there in April last year. I could go through a number of things that I do there.

**The Hon. JOHN RYAN:** Do you have a specific area of policy that you work on?

**Ms KEATING:** Yes, but again it varies over time. I have worked on particular issues when they have been important but there is nothing that is specifically mine. There are several things over time that have been but are no longer.

**The Hon. JOHN RYAN:** How is your work assigned to you? Does somebody assign it to you specifically?

**Ms KEATING:** Whatever the issues are at the time they normally split them up in terms of what the priority is in the office at the time and we work on them accordingly.

**The Hon. JOHN RYAN:** Is it the chief of staff or the Minister that directs you?

**Ms KEATING:** The chief of staff.

**The Hon. JOHN RYAN:** At the moment I am still a bit lost as to exactly what it is that you do. Can you explain perhaps some of the issues you have worked on this year?

**Ms KEATING:** I have worked on heritage issues. I have worked on the Year of the Environment. I have worked on design issues. I have worked on different areas in terms of preparing the forum on the Metro strategy. I have attended events with the Minister, as all the staff are obliged to do. I have provided briefing notes on issues of interest in terms of policy areas that the Minister might be interested in. I have assisted on advice for anyone in the office that needs advice. My role is not specific. Sometimes it is in research; sometimes it is in policy. It just depends on what the priority is at the time.

**The Hon. JOHN RYAN:** Were you in the habit of calling Mr Nabil Gazal junior on his mobile telephone during the year 2003?

**Ms KEATING:** No, not at all. In fact I had not spoken to Nabil for maybe—over the last summer I saw him on a number of social occasions. That is why I can pinpoint the fact that this conversation was between either the end of last year and early this year. Before the opening I had not seen him for quite a substantial period of time. My relationship lies with his sister, not really with Nabil.

**The Hon. JOHN RYAN:** Did you call him at all earlier this year?

**Ms KEATING:** Yes, we had several discussions this year because we were just going to the same events. I basically had bumped into him. We had a lot of mutual friends so I had seen him at a couple of events, which had led to us talking to each other over the beginning of the year, but it was in a social context only.

**The Hon. JOHN RYAN:** Do you recall phoning him on 12 March 2004?

**Ms KEATING:** No, I have no real recollection of when this conversation took place. As I said, I spoke to him every so often during that time. So this conversation I know was earlier this year but it was among a number of conversations that I had with him. There was no real reason for me to pinpoint this conversation. I cannot really recall what was discussed in any of them but I just know that I made reference to the fact that I had bumped into Mr Lowy that day and it was on one of those particular conversations.

**The Hon. JOHN RYAN:** If I may read you some of the transcript from the evidence of Mr Gazal junior, Ms Hale, my colleague, asked, "Did she"—meaning you—"ring your mobile?" Mr Gazal said, "Yeah, it was my mobile." Ms Hale asked, "Do you think she was ringing from a mobile?" Mr Gazal said, "Yep, I believe so." Ms Hale asked, "So she—from your records it would be easy for either one of you—" and Mr Gazal said, "Yeah, from her mobile records." It appeared Mr Gazal believed that you called him around March. Is that possible?

**Ms KEATING:** Yes, but this evidence is also coming from someone who, under oath, said that the conversation definitely happened in April, and then he retracted his remarks also. I cannot remember it happening on our mobile phones. It is a possibility, of course. But I cannot remember the specific conversation apart from the fact that during one of the specific conversations that I had with him I made reference to the fact that I saw Mr Lowy.

**The Hon. JOHN RYAN:** If I might, with great respect, point out to you that he did not say that the conversation happened in April; he said it happened some time before he went away in April. He did not name the date initially but when he came back to the Committee and checked some records he identified the date.

**Ms KEATING:** He tried to make reference to the fact that it was near a party that I saw him in April. He made reference to the fact that it was in April because he saw me at a party during that time. He also said that he had called me about it and he said it was made in passing. So there are a lot of factual issues—not that they are factual at all in fact. There are a lot of things that he said in his statement that turned out not to be true. So one would not put any emphasis on what he said.

**The Hon. JOHN RYAN:** Rather than asking you for a commentary on his evidence, do you recall calling him?

**Ms KEATING:** No.

**The Hon. JOHN RYAN:** Is it possible that you could have called him?

**Ms KEATING:** It is a possibility, yes. I will not outrule it.

**The Hon. JOHN RYAN:** Did you mention during that conversation, or do you recall mentioning to him, that you had met Mr Frank Lowy? Do you recall telling him that?

**Ms KEATING:** Yes. But it was a passing comment only.

**The Hon. JOHN RYAN:** Do you recall why you mentioned it?

**Ms KEATING:** Because he had made reference to the legal proceedings between Westfield and Gazcorp, and I was just prompted to say, "Believe it or not, I actually just bumped into the owner of the company today." That was the only reference. Had I known it was a political issue, I would not have raised it.

**The Hon. JOHN RYAN:** Did you say to him that Mr Lowy had told you that he was meeting the Premier?

**Ms KEATING:** No.

**The Hon. JOHN RYAN:** Did you say to him that Mr Lowy had told you that he had discussed the centres policy with the Premier on that day?

**Ms KEATING:** As mentioned in my statement, no.

**The Hon. JOHN RYAN:** What exactly did you tell him, apart from the fact that you had met Mr Lowy? Do you recall what else you might have said?

**Ms KEATING:** Not at all. It was not something that was on my radar at the time. It was just a passing remark in one of the conversations that I had with him.

**The Hon. JOHN RYAN:** Do you recall meeting Mr Lowy in the GMT tower on 12 March 2004?

**Ms KEATING:** I am not going to specify the date, because I cannot recall when it was. I have nothing to ground it to a particular date. But I do remember seeing him, yes, around the first quarter of this year.

**The Hon. JOHN RYAN:** Give that Mr Lowy says that he remembers the meeting, and he has grounded it at the 12<sup>th</sup>, would you concur that it is likely to have occurred on 12 March?

**Ms KEATING:** It is likely that that was the same date, yes, for obvious reasons.

**The Hon. JOHN RYAN:** Did Mr Lowy tell you that he had just met the Premier?

**Ms KEATING:** He made no reference to the Premier.

**The Hon. JOHN RYAN:** Was Mr Lowy leaving the building?

**Ms KEATING:** He was literally standing in the foyer between the two buildings.

**The Hon. JOHN RYAN:** It would seem to be reasonable, given that that is a building that contains government offices—

**Ms KEATING:** It is a building that also contains a lot of private sector offices as well, so—

**The Hon. JOHN RYAN:** It may do—and you had mentioned that you worked for the Government, it would not have been inappropriate for Mr Lowy to have mentioned where he had been without you asking?

**Ms KEATING:** Well, yes, I think it would be inappropriate, because he does not know me, and I know as well as you know that people just do not disclose information about their business and private dealings to complete strangers.

**The Hon. JOHN RYAN:** Did you have a conversation with Mr Lowy that went in any way like—. First of all, did Mr Lowy recognise you when you went to him?

**Ms KEATING:** I was not sure whether he recognised me or not, but I just thought that I would introduce myself to him in case he did, because otherwise it would have been rude for him to have recognised me, and seeing that I had seen him, walk straight past.

**The Hon. JOHN RYAN:** Why did you recognise Mr Lowy?

**Ms KEATING:** Because I had met him before and I know who is, and so I had no reason not to speak to him.

**The Hon. JOHN RYAN:** What were the circumstances in which you had met him before?

**Ms KEATING:** I met him in passing through my father.

**The Hon. JOHN RYAN:** Your father being Mr Paul Keating the former Prime Minister.

**Ms KEATING:** I think we all know that.

**The Hon. JOHN RYAN:** Did you explain to Mr Lowy that you were Paul Keating's daughter?

**Ms KEATING:** Yes.

**The Hon. JOHN RYAN:** When you met him?

**Ms KEATING:** Yes.

**The Hon. JOHN RYAN:** Did you say to him that Mr Keating had worked for Westfield with regard to the Bondi Junction development?

**Ms KEATING:** No. I had no idea about my father's dealings with Westfield whatsoever, if any. And, no, I did not mention it to Mr Lowy.

**The Hon. JOHN RYAN:** Did you give that information to Mr Gazal Jnr?

**Ms KEATING:** Absolutely not.

**The Hon. JOHN RYAN:** When you mentioned that you had met Mr Lowy, did you mention that your family had been friends with Mr Lowy's family?

**Ms KEATING:** My family is not friends with Mr Lowy's family. I know that my father knows him, but I do not know that the rest of my family have met his family, no.

**The Hon. JOHN RYAN:** Mr Lowy said this morning that you had told him that you were working for the Minister for Planning.

**Ms KEATING:** Pardon?

**The Hon. JOHN RYAN:** Mr Lowy this morning informed the Committee that you had told him you were working for the Minister for Planning and that you were involved in planning issues. Do you remember what Mr Lowy said to you after you had mentioned that?

**Ms KEATING:** No, I do not. I cannot remember—if he made any remarks, actually.

**The Hon. JOHN RYAN:** Did he say to you any words to the effect—I do not have the transcript in front of me, and I am working now from memory—but words to the effect that planning is a controversial area or an interesting area in which to work?

**Ms KEATING:** I remember that he was pleased that I had a job working for the Government. It was a conversation had a long time ago. It was made in passing. I had no real reason to reference it. And, to tell you the truth, I was surprised when all of this was brought up, because there was no substantial reason for me to know what was going on with Orange Grove at the time, or the dealings between the Gazals and the Lowys.

**The Hon. JOHN RYAN:** Before coming to the Committee today, did you obtain or receive any legal advice or representation?

**Ms KEATING:** Yes.

**The Hon. JOHN RYAN:** Can you inform the Committee from where that came?

**Ms KEATING:** From my uncle and the counsel.

**The Hon. JOHN RYAN:** I am a bit lost as to who your uncle is. Could you name him, please?

**Ms KEATING:** Greg Keating.

**The Hon. JOHN RYAN:** I am sorry, who was the other person?

**Ms KEATING:** And counsel.

**The Hon. JOHN RYAN:** And the name of the counsel?

**Ms KEATING:** Peter Skinner.

**The Hon. JOHN RYAN:** Did you seek that yourself, or did somebody refer you to them?

**Ms KEATING:** I sought it myself. I just called my uncle, because he is a solicitor.

**The Hon. JOHN RYAN:** When you went to the opening of the outlets centre with Mr Knowles in November 2003 do you recall Mr Knowles giving a speech?

**Ms KEATING:** Yes.

**The Hon. JOHN RYAN:** Do you remember anything of what Mr Knowles said?

**Ms KEATING:** Well, he did not read a speech. He literally made a very short, off-the-cuff speech. There was nothing substantial made. They were very, very, very casual remarks that he made—nothing that I could remember.

**The Hon. JOHN RYAN:** Was it complimentary about the centre?

**Ms KEATING:** No. The only thing I remember is him basically saying that it was good that there were developments going on in the Liverpool area. It was a bit of a fluffy speech—nothing that was of any substantial merit.

**The Hon. JOHN RYAN:** You are talking about your boss!

**Ms KEATING:** Well, you know, it was just a casual speech. There was nothing exuberant about the opening, let me assure you of that. It was half-finished when we were there. If you had been out there, it was not a very formal event at all.

**The Hon. JOHN RYAN:** How long did Mr Knowles stay there?

**Ms KEATING:** Maybe half an hour, maximum.

**The Hon. JOHN RYAN:** Did you observe him meeting with people while he was out there?

**Ms KEATING:** I was with him for most of the time that he was there. But, no, it was basically pleasant remarks.

**The Hon. JOHN RYAN:** Do you recall him speaking to Mr Gazal?

**Ms KEATING:** Not at all, no.

**The Hon. JOHN RYAN:** Were you with Mr Knowles when he left the centre?

**Ms KEATING:** Yes. I wandered out with him, yes.

**The Hon. JOHN RYAN:** At no time did you see him speak to Mr Gazal at all?

**Ms KEATING:** Well, not to my memory, no. I think we were just leaving the centre. I think he escorted us out.

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

**Ms KEATING:** Mr Gazal.

**The Hon. JOHN RYAN:** It would seem a bit unusual to me that Mr Knowles would not have spoken to Mr Gazal, given that he invited Mr Knowles to the centre.

**Ms KEATING:** Yes, of course he spoke to him. But I think what you are trying to refer to is that they had a private discussion, and I was with him for most of the time. It was not as if he was taken to one side and said anything from my memory, no.

**The Hon. JOHN RYAN:** I wasn't getting at anything. Did you see them speak to each other?

**Ms KEATING:** Yes, I saw them speak to each other.

**The Hon. JOHN RYAN:** Do you recall Mr Knowles saying anything to him about assisting him with the development, given that it was in some trouble?

**Ms KEATING:** No.

**The Hon. JOHN RYAN:** Do you recall them discussing the legal action?

**Ms KEATING:** No.

**The Hon. JOHN RYAN:** Were you aware that before Mr Knowles went to the centre there had been representations from Westfield urging him not to attend?

**Ms KEATING:** No.

**The Hon. JOHN RYAN:** So you did not think that the occasion was in any way controversial?

**Ms KEATING:** I had no idea, no.

**The Hon. JOHN RYAN:** Did Mr Knowles say anything to you indicating that there was controversy surrounding the centre?

**Ms KEATING:** No.

**The Hon. JOHN RYAN:** When you said you had no reason to believe that this was a controversial issue—

**The Hon. JAN BURNSWOODS:** Madam Chair—

**CHAIR:** Mr Ryan, the bell has rung.

**The Hon. JOHN RYAN:** I am happy to come back.

**CHAIR:** Ms Sylvia Hale.

**Ms SYLVIA HALE:** Ms Keating, in your statement you say, "I was allocated the task of attending the opening of the centre with the Minister."

**Ms KEATING:** Yes.

**Ms SYLVIA HALE:** If it was, as you describe it, a fairly fluffy speech without much merit, why do you believe the Minister bothered to attend the opening?

**Ms KEATING:** For reasons like this: that someone always attends an event with the Minister.

**Ms SYLVIA HALE:** Yes. But I am asking you why the Minister allocated time, if you say it was a very informal, low-key event, and there were no—

**Ms KEATING:** Because it's in his electorate. That's why.

**Ms SYLVIA HALE:** So, because it was in his electorate. Fine. "I was aware that Nabil Jnr had been working closely with his father on a shopping centre project. I assumed it was the Orange Grove Centre." Why did you assume that?

**Ms KEATING:** The Minister's assistant allocates openings or events to all the staff, so it was just by chance that the task was given to me. We would literally take turns as to who turns up to these events. So she told me that I was attending the event, and I know that Nicole had made some mention of it beforehand. So, when it came up, I made a direct link between the centre that she was talking about and the event.

**Ms SYLVIA HALE:** So the name of the Gazal family would have been mentioned when they talked about the opening of the centre?

**Ms KEATING:** Yes.

**Ms SYLVIA HALE:** You then say that "I contacted Nabil Jnr and obtained information from him regarding the centre." What sort of information did you obtain?

**Ms KEATING:** It was just basically so that the Minister knew what was going to happen on the event in terms of what time we had to be there, and what the centre was like, in case he wanted to write a speech. I called just to fill in any blanks in case the Minister asked me any questions about it.

**Ms SYLVIA HALE:** So there was no indication at that stage from anyone that Westfield was unhappy about the centre's opening?

**Ms KEATING:** No idea, no.

**Ms SYLVIA HALE:** No-one mentioned that at all?

**Ms KEATING:** No. Nabil didn't mention it to me when I called him, no.

**Ms SYLVIA HALE:** Could I ask you what your occupation was before you started working for Mr Knowles?

**Ms KEATING:** I worked in the Premier's Office for a short period of time.

**Ms SYLVIA HALE:** Did you apply for a transfer to Mr Knowles's office?

**Ms KEATING:** Yes. Following the election, I put a request in to Graeme Wedderburn to say that I would like to get some ministerial experience, and that if there were any openings in any of the offices I would love to work in a Minister's office. A position came up in Knowles's office, and I had an interview with his Chief of Staff, Paul Evans, and I was offered a job there.

**Ms SYLVIA HALE:** Do you have any experience in the planning area at all?

**Ms KEATING:** No.

**Ms SYLVIA HALE:** What area is your area of expertise?

**Ms KEATING:** I have an honours degree in politics, philosophy and international relations from the University of New South Wales.

**Ms SYLVIA HALE:** But none in planning as such?

**Ms KEATING:** No. I don't think any of the advisers have any experience in planning. But we are not bureaucrats. We are not staffers at DIPNR, who are the professionals here. We are political advisers. That is what our roles are.

**Ms SYLVIA HALE:** You are a policy adviser, on policy matters relating to planning. Is that right?

**Ms KEATING:** Yes.

**The Hon. PETER PRIMROSE:** It is like being a teacher working for the Minister for Police.

**The Hon. JOHN RYAN:** I was not a policy adviser.

**Ms KEATING:** Well, I am not a policy adviser either.

**Ms SYLVIA HALE:** I thought you did describe yourself as a policy adviser.

**Ms KEATING:** I would not call myself an adviser. I would call myself an officer. I do not know whether there is a real difference between the two, but I am not one of the senior advisers in the office that make the big decisions about these types of issues.

**Ms SYLVIA HALE:** I believe the records supplied to the Committee by Mr Nabil Gazal Jnr show you initiating the phone call to him.

**Ms KEATING:** Yes.

**Ms SYLVIA HALE:** And you say that was immediately after meeting with Mr Lowy.

**Ms KEATING:** I think it was on the same day, from my memory. Even though it was a very long time ago, I think it was on the same day, because he was just in my mind. From memory, I think I just saw him and he made reference to Westfield and I said, "Funny that, I just bumped into Frank Lowy." It seemed obvious at the time, with no controversial issues surrounding it, to make mention of it.

**Ms SYLVIA HALE:** But, for you to ring Mr Gazal Jnr—

**Ms KEATING:** I never said that I rang him.

**Ms SYLVIA HALE:** I believe his records show your making the call.

**The Hon. JAN BURNSWOODS:** Point of order: Mr Gazal's evidence was that he left a message for Ms Keating and she rang him back. And then, later on, we received some phone information from him.

**The Hon. JOHN RYAN:** I think he returned her call and left a message.

**Ms KEATING:** But he retracted his statement anyway. Didn't he retract his statement?

**Ms SYLVIA HALE:** No. He was unclear at the time as to when he made the—

**Ms KEATING:** I read through the transcript, and both his father and him seemed very clear about the date.

**The Hon. JOHN RYAN:** There has been other correspondence with the Committee where they indicate that they were not clear about the date and they have explained that.

**The Hon. JAN BURNSWOODS:** How convenient. But that was after they got the headlines, wasn't it?

**Ms KEATING:** And after I was invited to attend here today.

**The Hon. JOHN RYAN:** The Committee did put him on the spot. We asked him to give evidence, almost from the floor.

**Ms KEATING:** He was yelling from the floor.

**The Hon. JOHN RYAN:** Were you here?

**CHAIR:** We were here.

**Ms SYLVIA HALE:** His father turned to him to ask him to inform him about the date. Anyhow, so here you are. Obviously Westfield and Gazcorp are going head to head in the courts about whether, in fact, the development should proceed. You are working in the planning office. You know Mr Gazal Jnr. You have just had a conversation with Mr Lowy about your working in planning. I find it entirely feasible that when someone who is talking to a person of her own age, obviously good social acquaintances, or whatever, that in fact it would be highly likely to say, "Oh look, I ran into Mr Lowy and, you know, he has just been having a conversation about the centres policy."

**Ms KEATING:** Well that is an assumption you are making and it is not true.

**Ms SYLVIA HALE:** But why do you believe Mr Gazal Jnr would give evidence on oath before this Committee saying that, in fact, that conversation took place?

**Ms KEATING:** I can't comment on his motivation. All I can do is reiterate my recollection of the conversation. And he has already made retractions, you know.

**Ms SYLVIA HALE:** He has not retracted the bit about the conversation.

**The Hon. PETER PRIMROSE:** Not yet.

**Ms KEATING:** Not yet, exactly.

**The Hon. JOHN RYAN:** When you were phoning Mr Gazal Jnr—

**Ms KEATING:** I did not phone him.

**The Hon. JOHN RYAN:** You did phone him. You said you were allocated the task of attending the opening of the centre.

**Ms KEATING:** Oh that, yes.

**The Hon. JOHN RYAN:** And you had called Mr Gazal in order to get some information from him.

**Ms KEATING:** Last year, I did. I phoned him last year.

**The Hon. JOHN RYAN:** Did you also contact the relevant department to get a briefing note for the Minister prior to his attendance at the—

**Ms KEATING:** That is not my role. His PA, if the Minister thinks it is necessary, will obtain that information from the department.

**The Hon. JOHN RYAN:** Were there briefing notes prepared by the department for the Minister for his attendance at this event?

**Ms KEATING:** Not to my knowledge, no.

**The Hon. JOHN RYAN:** Why would you not have found that out?

**Ms KEATING:** Because I was just basically attending the event. I just called to find out when we were going to be there, whether they thought a speech was necessary, you know. There were only a few things that I had asked about it.

**The Hon. JOHN RYAN:** Who allocated you that task of making those phone calls?

**Ms KEATING:** I think it was his PA.

**The Hon. JOHN RYAN:** Who is "his"?

**Ms KEATING:** The Minister's PA.

**The Hon. JOHN RYAN:** Who was?

**Ms KEATING:** Mary Pas.

**The Hon. JOHN RYAN:** When you attended the Minister did you carry for the Minister briefing notes which are normally prepared for Ministers when they go for visits?

**Ms KEATING:** No, I did not.

**The Hon. JOHN RYAN:** Did you read any briefing notes with regard to that, given that you were the person who was advising and attending the Minister?

**Ms KEATING:** No, I did not.

**The Hon. JOHN RYAN:** Why did you not make it your business to know what the department's view was about this matter?

**Ms KEATING:** It is not my duty to obtain DIPNR briefings about attending events. The Minister, if he has requested them, they will be in his folder for the day. I was just asked by Mary to obtain information about what time they had to be there and what kind of event it was, and so I obtained that information and, you know, I told the Minister that it was a very informal event and that a speech was not necessary.

**The Hon. JOHN RYAN:** So you did not need to familiarise yourself with what was in the Minister's folder with regard to this event?

**Ms KEATING:** No. It is not as if I go shuffling through his folder, no.

**The Hon. JOHN RYAN:** Well, a lot of ministerial officers do make themselves familiar with the issues.

**Ms KEATING:** Well, I didn't.

**The Hon. JOHN RYAN:** Did you attend any other event on the same day with the Minister?

**Ms KEATING:** No.

**The Hon. JOHN RYAN:** It was just that one event?

**Ms KEATING:** Yes.

**The Hon. JOHN RYAN:** Did you arrive with the Minister in his vehicle, or did you arrive separately?

**Ms KEATING:** I arrived with the Minister in his vehicle, I am fairly sure, or maybe I arrived— Maybe I didn't. Actually, I am not sure; I can't remember. It was too long ago.

**The Hon. JOHN RYAN:** I am just wondering what your role was then, if you didn't have policy advice—

**Ms KEATING:** Actually, no, because I think it was in the morning. I drove him from the city because it was in his electorate. I think I drove in with the driver. We went via his house and picked him up and went straight there, from memory.

**The Hon. JOHN RYAN:** So what was your role?

**Ms KEATING:** Just to attend the event with him in case—

**The Hon. JOHN RYAN:** And do what?

**Ms KEATING:** To just be there in case he needed anything for any reason whatsoever. Whenever the Minister attends a public function a staffer is always obliged, or someone in the office should be there with him.

**The Hon. JOHN RYAN:** When you attend events of this nature do you normally familiarise yourself with what the Minister is doing, why he is there and any briefing notes?

**Ms KEATING:** Well, I did not feel the need in this particular circumstance. It was just an opening. So, no, I did not.

**The Hon. JOHN RYAN:** So you knew nothing about it other than the address?

**Ms KEATING:** Basically, and it was the Gazals that owned the centre.

**The Hon. JOHN RYAN:** Did you mention to the Minister that you knew Nabil Gazal and that you had been to school with him?

**Ms KEATING:** Yes, I did.

**The Hon. JOHN RYAN:** Did the Minister comment on that?

**Ms KEATING:** No.

**The Hon. JOHN RYAN:** You had no idea that this was a controversial matter at all?

**Ms KEATING:** None whatsoever.

**The Hon. JOHN RYAN:** Did the Minister indicate to you that he had concerns that he had been—

**Ms KEATING:** No.

**The Hon. JOHN RYAN:** You are aware that the Minister was approached only days before this meeting. Are you now aware that the Minister was approached days before this meeting and told not to attend?

**Ms KEATING:** Until you mentioned it now I had no understanding of that, no.

**The Hon. JOHN RYAN:** Do you read the newspapers?

**Ms KEATING:** Yes.

**The Hon. JOHN RYAN:** There is extensive reference in newspapers that Mr Knowles was told not to appear.

**Ms KEATING:** I was only aware that this was a political issue most probably in about April of this year. I had no understanding that it was a contentious issue before that time.

**The Hon. JOHN RYAN:** And you did not see the Minister have a conversation? What did you do while the Minister was talking to people at the event?

**Ms KEATING:** I basically stood by the stage and waited for us to leave. I had a brief discussion with the Gazal family. I have never met the parents before that point in time. So I introduced myself to them and had a brief discussion to the daughter, who I am friends with.

**The Hon. JOHN RYAN:** Were you not present seeing the Minister at any time while he was there?

**Ms KEATING:** No, I was with him for most—I think for the entire time.

**The Hon. JOHN RYAN:** Was there any time that he might have been away speaking to Mr Gazal that you did not observe?

**Ms KEATING:** Well we were in the, you know, it was a very small event, and so we were standing close to each other basically the entire time. Whether he stepped to one side and said hello to anyone in his electorate, I am not sure, but I was with him for the majority of the time, yes.

**The Hon. JOHN RYAN:** You said you were with him all of the time. Now you have just said the majority of the time. Can we have a definitive statement, please?

**Ms KEATING:** I was with him. I was there accompanying him. That was the reason for me being there. So I was not off wandering around doing other things. I was there, attentive, you know, to the Minister during the time that we were there.

**The Hon. PETER PRIMROSE:** Is there a point to this, or are we just trying to trick the witness?

**The Hon. JOHN RYAN:** There is a point.

**The Hon. PETER PRIMROSE:** What is the point?

**The Hon. JOHN RYAN:** I am attempting to find out what—I will explain to the Committee later.

**The Hon. PETER PRIMROSE:** Tell us what you are trying to get at. Maybe the witness can say yes or no.

**CHAIR:** Order!

**The Hon. JOHN RYAN:** Mr Gazal has given evidence to the Committee about conversations he had with the Minister during that period. It is relevant to ask this person, who was present at the time, whether she saw the conversations.

**Ms KEATING:** Why don't you ask the Minister that?

**The Hon. JOHN RYAN:** Well, unfortunately, your Minister has not come. We would love to ask him that question. Sadly, he has not come here. I would have thought that you might have been briefed that he did not want to come.

**The Hon. PETER PRIMROSE:** But the witness has answered that. How many times must she answer the same question?

**Ms KEATING:** I can understand why he wouldn't want to.

**The Hon. JOHN RYAN:** Are you familiar generally with the issues relating to Orange Grove?

**Ms KEATING:** I have been since this has come on the radar and I have been called to come and testify, yes.

**The Hon. DAVID OLDFIELD:** Ms Keating, you were in the Premier's office prior to going to Mr Knowles' office?

**Ms KEATING:** Yes.

**The Hon. DAVID OLDFIELD:** What was your role there?

**Ms KEATING:** Again, I had no real specific role there. I did an internship there for about seven months. I was supposed to do an internship, which I received through applying through my university degree. They were offering internships in the New South Wales Government. So I did an internship there for seven months and then was offered a job to work on the election campaign and following it to the end. So I worked basically on marginal seats while I was there and on any job that they needed anyone to help out on. I was just there to familiarise myself with the ways of government, which was great. And then I said that I would love to continue working for the Government if there was a position available for me, and when one came up I accepted a position in Minister Knowles' office.

**The Hon. DAVID OLDFIELD:** So essentially, uni, internship, Premier's Department, election campaign in between, Knowles' office, here today?

**Ms KEATING:** Yes.

**The Hon. DAVID OLDFIELD:** Premier's office or Premier's Department?

**Ms KEATING:** Premier's office.

**The Hon. DAVID OLDFIELD:** I am just a bit confused in relation to the phone call to Nabil Gazal. At one stage you seemed to be acknowledging that it might have been you who called him. He says it is you who called him and that is my understanding. You seemed at one stage earlier to be acknowledging that it was possible you called him.

**Ms KEATING:** No, I never acknowledged that.

**The Hon. DAVID OLDFIELD:** You are not acknowledging that?

**Ms KEATING:** I said I acknowledged that I called him last year about the opening. I am not acknowledging that I called him.

**The Hon. DAVID OLDFIELD:** Are you willing to offer up your mobile phone records for the Committee?

**Ms KEATING:** No, I am not.

**The Hon. DAVID OLDFIELD:** How well do you know Nabil Gazal Jnr? I know that you are saying you are primarily familiar with his sister, but what is the extent of the relationship with Nabil Jnr?

**Ms KEATING:** I met him through school, when we were at school, at school during our schooling years through mutual school friends, you know, so I have known him over a long period of time, but I would not say that I am close to him, no.

**The Hon. DAVID OLDFIELD:** Right. When you are suggesting that Nabil Jnr became very angry with you at this party, or this social event, what was it that caused him to be angry with you? What was your relationship to this?

**Ms KEATING:** Well I think because when this became a political issue, whenever Nicole particularly mentioned the issue to me I said, "Look, I declared my interest. I don't want your family to think that I am associated with the decision-making process. I am not privy to it, apart from attending the opening. You know, I have had nothing to do with the decision-making process." And so much so that I completely distanced myself from it in the office, so I had no real understanding of what was going on or where it was at. Of course, they were anxious to find out how it was proceeding. So whenever I spoke to Nicole I said, "Look, I have declared my interest and I don't want to talk about this."

I have kept that line with both of them since it became a political issue in our office. But I thought that I made it pretty clear that they should not associate myself with this decision. Sure, I work in Minister Knowles' office, but this is Minister Beamer's decision. So I knew that he had been away and it was the first time I had seen him since he had been away. So I literally went up and just said, "Hi, how are you going?" And that is when he started to abuse me. He didn't even bother saying hello. It was so embarrassing, in fact, and I was so shocked by the experience that I just walked off, so nothing was actually said except for the fact that he yelled obscenities at me.

**The Hon. DAVID OLDFIELD:** When was the period that you were receiving phone calls from Nicole in relation to wanting to know how the matter was progressing?

**Ms KEATING:** I think I have mentioned it in my statement. I don't know. Sometime from March and April. I don't know. I think about April up until the present, April and July. July was the last time I spoke to her.

**The Hon. DAVID OLDFIELD:** Why would Nicole Gazal have been calling you, given the circumstances that it was being related to Beamer's office?

**Ms KEATING:** Because maybe she thought that I would have some insight into what was going on. She knew that I went to the opening, so it is not, you know, it is not surprising. Maybe she thought that I could provide some information. But I told her every time she called that I was not going to provide any information because I had declared my interest and the office was fully aware of this.

**The Hon. DAVID OLDFIELD:** There is a suggestion that the exchange between yourself and Nabil Gazal Jnr occurred on the basis of your defending the Government's position on sound planning principles having previously, in the same conversation, said that you did not really know anything about it. What would you say to that?

**Ms KEATING:** Can you repeat the question, please?

**The Hon. DAVID OLDFIELD:** There is a suggestion that the exchange between yourself and Nabil Gazal Jnr came about as a result of your defending the Government's position, saying that the decision had been made on sound planning principles having said prior to that that you did not know anything about it.

**Ms KEATING:** I have had no discussion with him about the decision-making process apart from saying that I was not involved. I thought that that was quite clear and that they understood I was not involved in the decision-making process. I have never upheld the decision in conversations to Nabil. I have never upheld the decision-making process of the Government. I just said, "Look, I am not involved. Don't associate myself with it." So when I saw him I went up to say hello to him because I did not think that he was taking this personally or holding it against me that I was not so forthcoming with information.

**The Hon. DAVID OLDFIELD:** It seems very strange to me that he would be holding anything personally against you, given the circumstances that you are describing?

**Ms KEATING:** Well, that is why I was surprised, but he did yell at me so obviously he was holding something against me.

**The Hon. DAVID OLDFIELD:** I did not quite understand—in the situation of the phone call where you told him about seeing Frank Lowy—how did that arise?

**Ms KEATING:** Because he mentioned that he was upset about the fact that there was legal proceedings going on between Westfield and Gazcorp and I just said, "Funny that". I do not know when it was, unfortunately. I wish I had a point of reference.

**The Hon. DAVID OLDFIELD:** If I could help you. I understand by phone records and by what Mr Lowy has said, it seems that this phone call took place on the day that you saw Mr Lowy.

**Ms KEATING:** Okay. Yes, on that day, so—he made mention to it and I said, "Well, funny that. I saw Mr Lowy." It was a comment made in passing.

**The Hon. DAVID OLDFIELD:** So it was just mere coincidence that Nabil happen to ring you on the day that you happened to run into Frank Lowy?

**Ms KEATING:** Yeah, and I said, "Coincidentally he'd mentioned this and I saw Mr Lowy today." That was how—it was a comment made in passing only.

**The Hon. DAVID OLDFIELD:** That is all I have.

**CHAIR:** Ms Keating, can I just clarify for the record your job title?

**Ms KEATING:** Policy officer.

**CHAIR:** Thank you for your time today.

**Ms KEATING:** Thank you very much.

**Ms SYLVIA HALE:** I have one more question.

**CHAIR:** Okay.

**Ms SYLVIA HALE:** In your statement, Ms Keating, you say that some time between January and March 2004 you had a conversation with Nicole Gazal. "During that conversation she mentioned to me that her father's company was being sued by Westfield."

**Ms KEATING:** Yes.

**Ms SYLVIA HALE:** Now you at that stage—you made it perfectly clear that you had no involvement, that it was outside—

**Ms KEATING:** No, no. This is—sorry, continue on.

**Ms SYLVIA HALE:** How did you respond to Nicole Gazal when she said that?

**Ms KEATING:** At the time I had—this was the first mention I'd heard—that conversation that I had with her was the first time I had heard about the legal proceedings between the two companies and she mentioned it in the context of knowing that I was at the event. She said, "Westfield's suing my father." And she was surprised because Mr Lowy had not made any mention to her father about the fact that there was legal proceedings going between—that there was legal proceedings.

**Ms SYLVIA HALE:** How did you respond when she told you this?

**Ms KEATING:** Well, it was again a comment she just made in passing, saying, "They're actually suing us and trying to close down the centre that you attended." That was my only—

**Ms SYLVIA HALE:** That must have sparked some interest. Here were two families, both of whom you knew or your family knew reasonably well and met frequently on varying occasions—

**Ms KEATING:** No, that is incorrect. My family do not know the Gazal family at all and it is only me that knows the Gazal family.

**Ms SYLVIA HALE:** Right. Okay.

**Ms KEATING:** And, as I said, I know that my father knows Mr Lowy but they are not family friends of ours. My family are not—

**Ms SYLVIA HALE:** Okay. We get two families with whom—

**Ms KEATING:** That I know.

**Ms SYLVIA HALE:** That you know.

**Ms KEATING:** Of.

**Ms SYLVIA HALE:** That you know of. You have told us that Nicole Gazal presumably speaks somewhat bitterly of the Lowy family in that exchange.

**Ms KEATING:** I have never said that.

**The Hon. JAN BURNSWOODS:** Stop putting words in her mouth.

**Ms SYLVIA HALE:** No, okay, sorry. So she just said it as a passing comment.

**Ms KEATING:** In fact, she made the comment of saying that it's such a big corporation, she's not surprised because she said, "Maybe Mr Lowy doesn't even know about it." That's what she said.

**Ms SYLVIA HALE:** So there was no bitterness or rancour?

**Ms KEATING:** There was no bitterness. She said that Westfield was suing her father and that she was surprised that Mr Lowy had not made mention of that to her father but then she said, "But then again, it's such a big corporation maybe he is not even aware of the fact that it's going on."

**Ms SYLVIA HALE:** So there was no suggestion that she was raising this with you because you were working in Mr Knowles' office?

**Ms KEATING:** No.

**Ms SYLVIA HALE:** When you were speaking then subsequently to Nabil Gazal junior, you did not have any hesitation about mentioning Mr Lowy's name at all? No warning bells went up on the basis of your previous conversation?

**Ms KEATING:** Exactly, because at the time this was not a political issue, you know. I knew about it when it became a political issue and had I known it was a political issue, I would have made no reference to Mr Lowy, which confirms that it must have been earlier this year when the conversation took place but, no, I did not even know that it was going to come to Beamer's office at the time. He made a mention to it and I said, "Funny, I saw him earlier that day." That's how it went.

**CHAIR:** If there are no further questions, thank you Ms Keating for your time.

**Ms KEATING:** Thank you very much.

**CHAIR:** That concludes this public hearing.

**(The witness withdrew)**

**(The Committee adjourned at 5.05 p.m.)**