

**REPORT OF PROCEEDINGS BEFORE**

**GENERAL PURPOSE STANDING COMMITTEE NO. 4**

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

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**At Sydney on Friday 10 September 2004**

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**The Committee met at 10.00 a.m.**

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**PRESENT**

The Hon. J. A. Gardiner (Chair)

The Hon. J. C. Burnswoods

The Hon. A. R. Fazio

The Hon. K. F. Griffin

Ms S. P. Hale

The Hon. D. E. Oldfield

The Hon. P. T. Primrose

The Hon. J. F. Ryan

**CHAIR:** Welcome to the ninth public hearing of the inquiry of General Purpose Standing Committee No. 4 into the approval process for the designer outlets centre on Orange Grove Road, Liverpool. Thank you, gentlemen, for appearing here this morning. Before I move to the preliminary formal matters, I suggest that we have a minute's silence as a mark of respect for the tragic events in Jakarta at the Australian Embassy yesterday.

*Members and officers of the Committee, witnesses and members of the gallery stood in their places.*

**ROBERT RICHMOND JORDAN**, Chief Operating Officer, Australia and New Zealand, Westfield, and

**CRAIG STEPHEN MARSHALL**, Assets General Manager for New South Wales, Westfield, on former oath, and

**MARK RYAN**, Director of Corporate Affairs, Sydney, on former affirmation:

**GREGORY JOHN MILES**, Director, Development and Asset Management, Westfield, 100 William Street, Sydney, affirmed and examined:

**CHAIR:** I give you the usual advice that obviously this is a public hearing, but if at any time you believe that certain evidence should be given to the Committee in camera, the Committee would be happy to listen to such a request.

**Mr MILES:** Thank you.

**CHAIR:** I wish to advise members of the public and the media that there will be no hearings held as part of the inquiry next week. This Committee, as with other general purpose standing committees, is beginning its annual budget estimates process and will be holding a series of hearings from Monday to Friday, beginning with the Transport Services portfolio on Monday 13 September, which this Committee will be handling.

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 responsible for what they publish, including any interpretation placed on evidence before the Committee. In accordance with these guidelines, while a member of the Committee or witnesses may be filmed or recorded, people in the public gallery should not be the primary focus of footage or photographs. Under the standing orders of the Legislative Council, evidence and documents presented to the Committee that have not been tabled in Parliament may not, except with the permission of the Committee, be disclosed or published by a Committee member or by any other person.

I thank each of you for being here. I understand that you have provided the Committee with some further documentation this morning, which is being copied now for members of the Committee. Do any of you wish to make a statement or do you wish to proceed straight to questions?

**Mr MILES:** No, we are happy to proceed to questions.

**The Hon. JOHN RYAN:** If I can ask a couple of questions first of all of Mr Jordan. Is there some reason why, when you gave evidence on 16 August, you did not tell us about the meeting which had been sought through Mr Ryan to the Premier's Office, including an approach which might have involved a meeting between the Premier and Mr Lowy, when you were asked quite a number of questions about contacts between Westfield and the Premier's Office?

**Mr JORDAN:** If you look at the transcript, I volunteered to provide you a list of all meetings that Westfield had. That meeting was included on that list when it was provided. That list was provided in an orderly manner, as instructed by the inquiry, and then I answered all your questions truthfully at that time.

**The Hon. JOHN RYAN:** I am trying to work out whether it was because you did not know about the meeting or did you just not tell us about the meeting when you were asked direct questions relating to that on 16 August?

**Mr JORDAN:** I was aware of the meeting and I answered the questions that you gave me in a truthful manner.

**The Hon. JOHN RYAN:** So you were aware of the meeting when you gave your evidence on 16 August?

**Mr JORDAN:** I was.

**The Hon. JOHN RYAN:** Is it just a matter that we have got to ask tricky questions before you will tell us about contacts between the Government and Westfield?

**Mr JORDAN:** No, I repeat: I answered your questions truthfully.

**The Hon. JOHN RYAN:** Did you not take an oath to tell the whole truth?

**Mr JORDAN:** Which I did.

**The Hon. JOHN RYAN:** Don't you think that not telling the Committee at that time about your knowledge of an approach to the Premier's Office was a significant issue that you should have informed the Committee of at that time, given that it was in your knowledge?

**Mr JORDAN:** I repeat that I volunteered to give you a list of all the meetings that we had. I did that and then I answered your questions truthfully.

**The Hon. JOHN RYAN:** We had no idea because by the time you had given the Committee information about the Wedderburn meeting, it had been announced by the Premier. Frankly, we have no guarantee that you would have told us about it, except for the fact that it was public knowledge. In fact, all of the information that you have given us about meetings between Westfield and the Premier's Office are meetings which are already publicly on the record.

**Mr JORDAN:** Excuse me, I took an oath. On that oath I said that I told you the truth. I said I would give you a list of those meetings, which I did, which included all the meetings that were there.

**The Hon. JOHN RYAN:** But you did not tell us when it was relevant, when we were asking questions—for example, when we asked was there ever an approach to the Premier's Office for a meeting which did not take place between Westfield and the Premier. There obviously was and you did not give us an answer to that.

**Mr JORDAN:** You did not ask that question. If you look at the transcript—and you need to look at it specifically, I answered every question that you asked me truthfully.

**The Hon. JOHN RYAN:** You were asked whether there was a meeting ever prospective between Westfield and the Premier and you did not reveal information which you now tell the Committee you had?

**Mr JORDAN:** No. I would like to look at that in detail. My recollection is what you asked me was whether there was a meeting with Frank Lowy and the Premier and I answered truthfully that there was not.

**The Hon. JOHN RYAN:** If we are going to be clever with words—

**The Hon. JAN BURNSWOODS:** You are starting off exactly the way you spent most of yesterday.

**The Hon. DAVID OLDFIELD:** Yes and so are you, so you can take your own advice.

**The Hon. JAN BURNSWOODS:** Madam Chair, could we please have some curtesy shown to the witnesses?

**The Hon. JOHN RYAN:** Are there any other meetings or approaches or representations or any other contacts, informal or formal, that took place between Westfield and representatives of the New South Wales

Government, their staff or representatives of the New South Wales Labor Party, its head office or other things that might be relevant information for this Committee to have that we did not already know about?

**Mr JORDAN:** The list that I provided you is complete, so far as I am aware.

**The Hon. JOHN RYAN:** So there were no meetings between Westfield and Labor Party headquarters and staff?

**Mr JORDAN:** As I have said, so far as I am aware, and so far as I have I been advised by my people, they are the meetings that I am aware of.

**The Hon. JOHN RYAN:** There have been no representations to other ministerial staff through other holdings, companies of Westfield, or other interested parties that we do not know about?

**Mr JORDAN:** As I have said to you, the list that I have given you is complete, so far as am aware.

**The Hon. JOHN RYAN:** Were there any representations, informal or formal, to Eric Roozendaal or any other representative of the Australian Labor Party with regard to this matter?

**Mr JORDAN:** So far as I am aware, I do not know of any matter like that. Again, I repeat to you: The list that I gave you is complete, so far as am aware.

**The Hon. JOHN RYAN:** I apologise for having to ask this question in a variety of different ways, but I want to make sure that the field is covered. Were there any meetings at which representations were made about the Orange Grove matter to representatives of the New South Wales Government, up to and including people such as Eric Roozendaal or representatives of the Labor Party headquarters at Sussex Street?

**Mr JORDAN:** I am sorry that I have to answer this question exactly the same way as you have. So far as I am aware, the list that I have given you is complete.

**The Hon. JOHN RYAN:** Mr Ryan or anybody else at the table, are you aware of other meetings that we should know about that we have not been told about?

**Mr RYAN:** I am not.

**Mr MARSHALL:** No.

**Mr MILES:** Not in regard to that.

**The Hon. JOHN RYAN:** Mr Ryan, you did not visit the headquarters of the Australian Labor Party and discuss this with Mr Roozendaal?

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

**The Hon. JOHN RYAN:** I ask a more pedestrian question. Are you able to supply the Committee with details of where Westfield shopping centres are located in New South Wales?

**Mr JORDAN:** I can supply that, yes.

**The Hon. JOHN RYAN:** I do not imagine that you would have it to hand, but it would be useful for the Committee to compare that with the centres policy. Westfield paid attention to the fact that the matter involving the development consent for the Orange Grove outlet was not announced publicly by Liverpool council until April 2004. One of the obvious impacts of that would have been that it meant that people were prevented from making any protest or representations about it until it was known. However, I understand there is available correspondence and other evidence that was presented to a court that indicated that Westfield certainly knew about the approval and development consent of the Orange Grove centre very early in the year 2003. Is that not true?

**Mr JORDAN:** I was not involved in it, but I my understanding is that we knew somewhere in February or April.

**The Hon. JOHN RYAN:** Is it not a fact that AMP sent a briefing, I think, to Justin Lynch, detailing through whatever means it discovered that the outlet had been approved, and also detailing information about how it might be legally challenged?

**Mr JORDAN:** I am not aware of that documentation.

**Mr MILES:** I certainly am. That was provided I think in around February.

**The Hon. JOHN RYAN:** Could you tell us what was in that documentation? What did Westfield know and when did it know about this outlet?

**Mr MILES:** I think at around that time we became aware, through a consultant employed by AMP, that there had been some consent issue. We sought to gather information and facts at that time about what had actually occurred.

**The Hon. JOHN RYAN:** So far as Westfield was concerned, other than it be a remark on how council operated, it was immaterial that the matter was not announced to the public and publicly advertised until April?

**Mr MILES:** I would not say that it was immaterial. Had we known that the matter was being considered prior to when a decision had been issued we would obviously have made representations. Presumably had we, or others in the Liverpool central business district, made representations, the matter would have been considered by somebody other than council officers. I imagine it may have gone through the Liverpool council meetings process where it would have had some independent review. So it could potentially have been a different outcome had we been aware prior to the determination.

**The Hon. JOHN RYAN:** Is not one of the outcomes of it not being advertised until April that it extended the period of time within which Westfield was able to launch a challenge? If it had been advertised back in December a challenge launched by Westfield in June would have been invalid. But because the council did not advertise it until April the Westfield challenge was then able to be validated by the court and ultimately successful?

**Mr MILES:** In my understanding the Environmental Planning and Assessment Act has a statutory period within which people can take action. I think it is 90-day window.

**The Hon. JOHN RYAN:** That is right. So that period would have expired had Liverpool council advertised the development approval immediately it had been given late in 2003? You would have had only until probably the end of March or the beginning of April to launch a challenge, would you not?

**Mr MILES:** That is not to say that we would not have launched a challenge within the statutory period because we would have been aware of it.

**The Hon. JOHN RYAN:** In any event, the person who suffered the most from the failure to advertise the development approval was, in fact, Mr Gazal because it extended the period within which Westfield was able to launch a challenge?

**The Hon. JAN BURNSWOODS:** That is an interesting conclusion, is it not?

**Mr MILES:** I would not necessarily say that.

**The Hon. JOHN RYAN:** It certainly did not advantage Mr Gazal, did it?

**Mr MILES:** I do not know whether the outcome would have been any different. I think the outcome for Mr Gazal may have been different had it been notified properly and been given some airplay in Liverpool prior to the council officer issuing the original consent. There could certainly have been a different outcome.

**The Hon. JOHN RYAN:** Westfield had ample knowledge of the fact that the matter had been advertised and approved by at least January 2003. So you had six months to prepare your challenge instead of only three months?

**Mr MILES:** I do not believe it had any material difference on the outcome.

**The Hon. JOHN RYAN:** It might not have had any material difference on the outcome but the simple truth was that there was an extended period of time for Westfield to complain about it. It could hardly be said that, if advertising the development had a corrupt purpose, it certainly seems to be bizarre in that it had exactly the opposite impact on Mr Gazal than one might have hoped.

**Mr MILES:** I think you could also form a view that the delay in advertising it was in the hope that the development would get under way and would get open prior to there being any challenge so as to enable it to operate.

**The Hon. JOHN RYAN:** In any event, Westfield knew about it well and truly by January 2003, did it not?

**Mr MILES:** I thought that we knew in February some time.

**The Hon. JOHN RYAN:** Is it also a fact that the potential challenge was used as a means of enticing tenants who were showing some interest in occupying the designer outlet? Westfield, in fact, used that information as a means of enticing tenants to its own proposed development?

**Mr MILES:** I do not believe that is the case.

**The Hon. JOHN RYAN:** Is it not fact that there is correspondence that indicates that somebody within Westfield asked for information about the legal challenge and I think the words used were "so that they could screw the deal in negotiations with an organisation known as Rebel Sports"?

**The Hon. JAN BURNSWOODS:** Point of order: Madam Chair, I am seeking some advice. Yesterday when we were questioning Mr Gazal and some of these issues came up Mr Gazal told us that there was a difficulty in him talking about any of these papers because they were part of a court case. So, basically, he did not answer. After a bit of discussion the Committee ceased questions about documents relating to the period around February. I am seeking to know whether the purported quotations that Mr Ryan is now making come from the documents that Mr Gazal said he had cited, but he told us that because they were before the court he was unable to provide them to us or to quote or comment on them?

**The Hon. JOHN RYAN:** I do not believe that the point of order has any validity.

**The Hon. JAN BURNSWOODS:** Here we have our Chair again.

**The Hon. JOHN RYAN:** I am speaking to the point of order. That is what happens when you take a point of order.

**CHAIR:** The Hon. John Ryan is speaking to the point of order.

**The Hon. JAN BURNSWOODS:** Usually you just act as Chair. But if you would like to start by saying that you are talking to the point of order we would know what you are trying to do.

**The Hon. JOHN RYAN:** I have no idea what point of order you are seeking to make. I know of nothing in the standing orders that prevents me from asking the question that I just asked. In terms of the documentation you are referring to, I have never seen it. I simply know of these facts. I have, in fact, referred not only to Mr Gazal but also to Rebel Sports. There are plenty of places where I can get this information. I am sure that Westfield is capable of answering questions as to whether there were people within Westfield seeking to use litigation as a means of, for want of a better word, poaching tenants from Mr Gazal, or at least enticing tenants to its alternative development in Liverpool. If members of the Labor Party wish to continue defending Westfield's right to keep silent on these matters, so much for them.

**The Hon. PETER PRIMROSE:** To the point of order.

**The Hon. JOHN RYAN:** I have not finished yet, Mr Primrose. Nevertheless, I see no valid challenge to the question that I have asked in terms of the standing orders of the Legislative Council.

**The Hon. PETER PRIMROSE:** My understanding is that, as the Hon. John Ryan has indicated, there have been extensive meetings between him and Mr Gazal, presumably to protect Mr Gazal's interests, and that yesterday we were told that these matters could not be quoted from. Yet now a member of the Committee is proceeding to quote from them today.

**CHAIR:** As far as I am aware, there is no reason to rule the question out of order. Mr Ryan.

**The Hon. JAN BURNSWOODS:** Madam Chair, a further point of order: I would like to know what documents Mr Ryan is quoting from. Given the refusal by Mr Gazal yesterday to quote documents of around the same date, if Mr Ryan has those documents then obviously there is a question mark. If he has different documents, I would ask that other members of the Committee be provided with those documents—

**The Hon. JOHN RYAN:** I do not have any documents.

**The Hon. JAN BURNSWOODS:** —so that we have some information as to their validity, accuracy, standing, whether they have been before the court, or are still before the court, or any of the questions that come to mind about their status.

**The Hon. JOHN RYAN:** There is no validity in that point of order.

**The Hon. JAN BURNSWOODS:** Here he goes again! Are you Chair or taking a point of order?

**The Hon. JOHN RYAN:** I am giving a response to your point of order. I do not have a document to quote from. I have asked a direct question. I think it is fair that I am well informed in terms of the question that I have asked. There is no doubt about that.

**The Hon. JAN BURNSWOODS:** Well, Gazal has briefed you about five times a day, for God's sake!

**CHAIR:** Order!

**The Hon. JOHN RYAN:** I do not know why you are making that allegation. That is not true either.

**The Hon. JAN BURNSWOODS:** He told us yesterday.

**The Hon. PETER PRIMROSE:** Because you acknowledged it. You told us in evidence.

**The Hon. JOHN RYAN:** I did not say that in evidence.

**The Hon. JAN BURNSWOODS:** He did.

**The Hon. JOHN RYAN:** You can go back and read the transcript, if you choose.

**The Hon. JAN BURNSWOODS:** He said in evidence.

**The Hon. JOHN RYAN:** I certainly have had conversations with Mr Gazal—

**The Hon. JAN BURNSWOODS:** And meetings.

**The Hon. JOHN RYAN:** —but certainly not five times a day, and certainly not meetings.

**The Hon. PETER PRIMROSE:** And phone calls with the mysterious Mr Bargshoon.

**The Hon. JOHN RYAN:** And certainly not meetings. But it is not unusual for members of the Committee to seek elucidation of answers and other information. That is not unusual, and you know that. As I

have said, I have asked a valid question, and I do not see any reason why Westfield are not capable of answering it.

**The Hon. PETER PRIMROSE:** A mysterious document that you don't have!

**The Hon. JOHN RYAN:** It is not a mysterious document. I am sure Westfield know what I am talking about. Perhaps they might table it themselves. I am simply seeking information from Westfield.

**The Hon. PETER PRIMROSE:** I would be grateful if the clerk could give some advice, and also the Chair, on this.

**CHAIR:** As I understand it, Mr Ryan is not referring to a particular document.

**The Hon. JAN BURNSWOODS:** So what did he quote from?

**The Hon. DAVID OLDFIELD:** Notes.

**The Hon. JOHN RYAN:** My notes.

**The Hon. PETER PRIMROSE:** So you are the source of authority!

**The Hon. DAVID OLDFIELD:** Unlike all your Labor staffers, he actually takes notes.

**The Hon. PETER PRIMROSE:** Stop defending him. So now you have got One Nation defending you! My God!

**CHAIR:** Mr Ryan may proceed.

**The Hon. PETER PRIMROSE:** Who is the source of authority? Ryan at the Bailey again!

**The Hon. JOHN RYAN:** Is it not a fact that there were people within Westfield seeking information about impending litigation so that they could "screw the deal" with regard to negotiations between Westfield and a company known as Rebel Sports?

**Mr MILES:** I am not aware of that.

**The Hon. JOHN RYAN:** Could you investigate to find out whether that is the truth, and get back to the Committee with information on that. Are you aware of any attempt by Westfield to inform potential tenants of Gazcorp about impending legal action, and informing them with a view of negotiating for their tenancy in alternate premises?

**Mr MILES:** I am not aware of that.

**The Hon. JOHN RYAN:** If I might ask a question of Mr Ryan. Mr Ryan, can I read some evidence that was given to us by Mr Meagher, the Chief of Staff to Diane Beamer? He described a briefing from Mr Wedderburn which was evidently based on information that you had given to Mr Wedderburn. I will just read you Mr Meagher's version of Mr Wedderburn's briefing:

As I recall, Mr Wedderburn explained that the LEP amendment involving the Orange Grove factory outlet centre had a seedy history and that the process through which the council allowed the factory outlet zoning in an industrial zone where bulky goods was permitted was highly suspicious. There was a real stench about it. He talked about the fact that the courts had held the development was unlawful. He talked of the sacked Liverpool council and the cloud over it from the Oasis development. He also said that we should be aware of the network of figures that were supportive of or associated with the operator, Gazcorp. He mentioned the names of Frank Mosca, Sam Bargshoon and Nabil Gazal. He impressed on the Minister and myself that because of the background of possible corruption the Minister should be cautious in making her decision that she should avoid being inappropriately lobbied.

I think, by any description, that appears to be a comprehensively adverse mention of Gazcorp and their associates and this development. Did that in any way reflect the information that you had given to Mr Wedderburn about this development? Does it accurately reflect the tone and attitude that you would have



expressed to Mr Wedderburn? Did you use words like "real stench", "highly suspicious" and "corruption" in your representations to Mr Wedderburn?

**Mr RYAN:** As I explained in my previous evidence to the Committee, I think I went through, in some detail then, what my recollection of my meeting with Mr Wedderburn was. The words that you have read out to me are somebody else's. They now are, what, a second- and third-hand construction on those words. I cannot do any more than refer you to my descriptions of what I said to Mr Wedderburn at some length in my previous evidence. I took concerns to Mr Wedderburn. I spent some time when I was here last explaining what they were. And, as I think I said at the time, what Mr Wedderburn then did with those concerns I cannot speak for or to.

**The Hon. JOHN RYAN:** I simply ask you does this description by Mr Meagher accurately reflect the tone of your representations to Mr Wedderburn, or are they somewhat exaggerated?

**Mr RYAN:** I cannot say that they were precisely the words I used, because I cannot remember verbatim a conversation I had so long ago.

**The Hon. JOHN RYAN:** Was your description of these events as strong as Mr Meagher's? In other words, what I am trying to work out is, has the story been improved through the retelling, or does this accurately reflect the sort of representation you made?

**Mr RYAN:** I can only point you to what I said in evidence. Other people can draw a conclusion about whether that sits with what this person third-hand has said. I mean, I cannot do any more than give the evidence I have given to the Committee. I mean, that is—

**The Hon. JOHN RYAN:** Mr Ryan, can I put to you that you did not actually tell us in evidence exactly what you had said. You told us what was in your mind before you went to Mr Wedderburn. You gave us a rough summary of what you told Mr Wedderburn. But Mr Meagher is the only person who has attempted to actually repeat this material, almost verbatim, to the Committee and reflect it. I am trying to work out: Has he overdone it, or does this accurately reflect the sorts of tone and words that you used?

**Mr RYAN:** Well, they are not my words. The words that I used, and the words that I can recall, are the same words that I gave to you in my evidence. I can remember you asking me when I was last before the inquiry what precise words did I use, and I think I explained at the time that I could not give you a verbatim account; I could give you the best of my recollection; I could name certain people that I mentioned. Did I mention other people? I could not be sure. So, again, I think I spent some time dealing with what I said to Mr Wedderburn. What Mr Wedderburn then said to someone else, and how he characterised it, and what he then said, and how he interpreted it, I just cannot answer to that.

**The Hon. JOHN RYAN:** Is this a fair representation of what you presented to Mr Wedderburn?

**Mr RYAN:** I think a fair representation of what I put to Mr Wedderburn is what I told the Committee when I was last here.

**The Hon. JOHN RYAN:** I think you understand common English. Is this a fair representation of what you put to Mr Wedderburn?

**Mr RYAN:** I would ask you to read my transcript, and read what you are reading to me, and draw your own conclusions.

**The Hon. JOHN RYAN:** I think you are the best person to make the judgement as to whether Mr Wedderburn accurately reflected to Ms Beamer what you had said to him.

**Mr RYAN:** I told Mr Wedderburn about my concerns. I mentioned some of the people involved. I talked about unconventional lobbying tactics and the like, and about my concerns that those influences would be brought to bear on the Minister. I do not know if I can help you much more than that. I spent a lot of time talking to you last time about what I told Mr Wedderburn. That is pretty clear. It is in the transcript.

**The Hon. JOHN RYAN:** I heard the alarm go, Madam Chair. I do want to come back to other questions, but I am happy to defer at this point.

**Ms SYLVIA HALE:** Mr Ryan, yesterday we heard evidence from Ms Westacott, the Director-General of the Department of Infrastructure, Planning and Natural Resources. She conceded, in answer to a number of questions, that it was not unusual for development applications to be considered and approved under delegated authority. That is a not unusual procedure. She also conceded that it was not abnormal or unusual for development applications that had been approved to be challenged, and subsequently overturned, in the Land and Environment Court. She said that in fact spot rezonings occurred very frequently, and spoke of there being hundreds of them. So what was done in relation to the approval of the Orange Grove centre development application, and then the subsequent determination by the council to initiate a spot rezoning, I think seems to have been perfectly in accord with usual practice. Would you agree?

**Mr RYAN:** I can only answer that question in the general.

**Ms SYLVIA HALE:** I was asking for a response in the general.

**Mr RYAN:** I am not an expert in the area. I am not familiar with these things. Other gentlemen here might be able to answer it more fully. But, from what I knew of the situation, it was anything but normal, it was anything but usual. I can only speak in broad terms from what Westfield's experience is whenever we put up even a relatively minor redevelopment of an existing shopping centre. We go through quite an exhaustive, public, transparent process ex cetera display. So, do spot rezonings occur? I am sure they do, and so forth. But, as I have said before to the Committee, everything I was told and advised suggested that this one was totally unusual in many respects.

**Ms SYLVIA HALE:** Can I assure you that anyone who has any familiarity with the workings of a local council knows that these procedures that I have just outlined are very commonplace. You do agree that the decision to proceed with the draft LEP was made by the administrator of Liverpool council, Ms Gabriele Kibble, and there had been absolutely no reflections or aspersions cast upon her capacity and her experience? You would agree with that?

**Mr RYAN:** Agreed, yes.

**Ms SYLVIA HALE:** You would also agree that on 23 March 2004—and I am quoting from a letter that Mr Jordan supplied in answer to questions—the view was expressed by a Mr John Whitehouse, a partner of Minter Ellison, that council's decision to grant the development consent was not negligent, and that there was clearly a potential course of action available to it, given the very unusual provision in the local environment plan. And, in relation to permissibility, the initial decision of the council to treat the application as permissible was reasonable and arguable, even if ultimately unsuccessful before Mr Justice Lloyd. So, it would seem to me, Westfield was being told on 23 March that it was very much open—and that it was reasonable and arguable, even if ultimately unsuccessful—it was very much open to the council to have approved that development application?

**Mr RYAN:** This is getting into areas that I am not expert in.

**Ms SYLVIA HALE:** Okay.

**Mr RYAN:** But I can tell you what my understanding of those matters that you have raised with me were. That was a view. It was always open, in my understanding, for the administrator to refer the matter back to the State Government. And then, once having arrived back with the State Government, or the Minister, it remained open even for the Minister to make a decision one way or the other. In other words, I understood it was never in dispute that the council or the administrator could refer it back to the State Government, and then ultimately the Minister could decide that way, taking into account all of the issues.

**Ms SYLVIA HALE:** That is right.

**Mr RYAN:** And it could have gone one way or the other.

**Ms SYLVIA HALE:** So, from what you are saying, the procedures undertaken were perfectly open to the council and to the administer Ms Kibble, and she proceeded to act in a way that no-one could have any objections to?

**Mr RYAN:** Well, I wouldn't go so far as to say that. I'm not familiar with the legal aspects of what you've read to me.

**Ms SYLVIA HALE:** So—

**Mr RYAN:** I'm just not qualified. I'm just—

**Ms SYLVIA HALE:** No, but obviously it's letters.

**Mr RYAN:** I've got—

**Ms SYLVIA HALE:** But you are sufficiently concerned. Here we have a process, it seems to me, to be eminently usual and acceptable, but somehow you have said, and at least these were the—

**The Hon. JOHN RYAN:** Highly suspicious and smelled.

**Ms SYLVIA HALE:** Yes, well, highly suspicious and smelled. You talked about the irregularities, and yet you—

**Mr RYAN:** In the approval, yes.

**Ms SYLVIA HALE:** Yeah.

**Mr RYAN:** Yeah.

**Ms SYLVIA HALE:** But you have at no stage, in terms of the rezoning application, produced any evidence of any irregularity.

**Mr RYAN:** Well, you're asking me about documents that were provided by not me, but by other people who were involved in the process. You're quoting sections of that, areas that I'm not familiar with. I don't have a legal or planning background.

**Ms SYLVIA HALE:** Sure.

**Mr RYAN:** What I'm, what my concern—my role in this was to bring concerns about the approval between June and November 2002 to the attention of the Government.

**Ms SYLVIA HALE:** But you will agree—

**Mr RYAN:** You're describing them as being entirely proper, reasonable, in the normal course of events. I've argued, based on what I learned and other evidence that has come before the Committee, that that is just not the case.

**Ms SYLVIA HALE:** But you have not produced—

**Mr RYAN:** It was anything but usual.

**Ms SYLVIA HALE:** —one material item of evidence to suggest that this was anything other than a regular process.

**Mr RYAN:** I don't think that's true. I think we've pointed to many, many irregularities in the process.

**Ms SYLVIA HALE:** You pointed to the fact that the Orange Grove development has been referred to the ICAC, but you didn't point to the fact—

**Mr RYAN:** No, I referred to a lot of other highly unusual activities given our experience with dealing with councils.

**Ms SYLVIA HALE:** But amongst those things—

**Mr RYAN:** The fact that it was advertised, it was approved one day after advertising closed.

**Ms SYLVIA HALE:** But there have been—

**Mr RYAN:** The fact that it was meant to have been done under delegated authority with no involvement by councillors, when council documents themselves show that councils were involved, for example. The fact that the original DA put in was immediately rejected, that it then sat with the council for four months, that the advertising procedures were improperly gone through.

**Ms SYLVIA HALE:** I cannot see anything in this that is irregular.

**Mr RYAN:** They're irregularities, and people who are more familiar with the process than I—

**Ms SYLVIA HALE:** I can't—

**The Hon. JOHN RYAN:** What's irregular about councils being involved in the approval?

**Mr RYAN:** Well, when they've said that they weren't involved I think that's suspicious.

**The Hon. JOHN RYAN:** Where do they say they were not involved? Where?

**Ms SYLVIA HALE:** But, since—

**The Hon. JOHN RYAN:** There was no evidence to this Committee that no councillor wasn't involved. Mr Paciullo has said he didn't know about it.

**Mr RYAN:** He didn't know about it, but there's a council memo from Mr Hunt saying that this issue can go no further until Mr Gerard Turrisi discusses it with councillors and the Lord Mayor. Now, perhaps that conversation never took place. That memo was dated a day or two before Mr Turrisi sent Mr Mosca a letter saying, "Whoops, we failed to advertise this. The proper processes haven't been adhered to." On the council's own admission proper processes weren't adhered to. Then we had a hand-written note one or two days before that letter was sent saying that this isn't going any further until the councillors are spoken to. Now, the councillors were involved or they weren't. They knew about it or they didn't know about it. As I've said, in my general experience councillors often get involved in these things because they're so great for the community.

**Ms SYLVIA HALE:** Mr Ryan, you will admit—and what we are concerned with here is the rezoning and why that rezoning that was proposed by Ms Kibble was—

**The Hon. JAN BURNSWOODS:** It wasn't proposed by Ms Kibble.

**Ms SYLVIA HALE:** —put forward and adopted by—

**The Hon. JAN BURNSWOODS:** Tell the truth.

**Ms SYLVIA HALE:** —Ms Kibble in her capacity as administrator of Liverpool council. She proposed it and forwarded it to the department for approval. Are you suggesting—because it is this stymieing of the rezoning which is the matter we are essentially looking at?

**The Hon. PETER PRIMROSE:** That is what you're interested in.

**Ms SYLVIA HALE:** Because—

**The Hon. PETER PRIMROSE:** Not "we".

**Ms SYLVIA HALE:** —the suggestion has been—

**The Hon. PETER PRIMROSE:** What's this royal "we" business"?

**Ms SYLVIA HALE:** —that the proposed rezoning was moving through the department and then, suddenly, it ran into a brick wall.

**The Hon. JAN BURNSWOODS:** Whose suggestion?

**Mr RYAN:** Well, I—

**The Hon. PETER PRIMROSE:** Who suggested this?

**Mr RYAN:** —can't speak to that. That's not something I've been involved in.

**Ms SYLVIA HALE:** Certainly, that seems to be the view that was being put forward by Mr Gazal.

**Mr RYAN:** There have been lots of views.

**The Hon. PETER PRIMROSE:** Mr Gazal!

**Mr RYAN:** Of course Mr Gazal would.

**Ms SYLVIA HALE:** And his very view—

**Mr RYAN:** Of course Mr Gazal would. Mr Gazal, Mr Gazal knew that he shouldn't have been making the original DA in the first place. He knew that it was illegal, but he thought he'd give it a whirl.

**The Hon. JOHN RYAN:** That's your allegation.

**Mr RYAN:** I mean—

**The Hon. PETER PRIMROSE:** We should call in Mr Gazal's consigliere.

**Ms SYLVIA HALE:** It certainly is your allegation.

**Mr RYAN:** That's what he told somebody else. I'm only saying what he's told somebody else. Of course it's his view. He said he'd give it a whirl.

**The Hon. JOHN RYAN:** Who did he tell?

**Mr RYAN:** Mr Chesterfield-Evans, I think.

**The Hon. JOHN RYAN:** Oh, look, give us a break.

**Mr RYAN:** Well, that's what he said.

**The Hon. JOHN RYAN:** That's what Mr Chesterfield-Evans said?

**The Hon. JAN BURNSWOODS:** Mr Ryan, are you now calling Dr Chesterfield-Evans a liar as well, are you?

**The Hon. JOHN RYAN:** I'm not—

**CHAIR:** Order!

**The Hon. JAN BURNSWOODS:** Mr Gazal called him a liar yesterday.

**The Hon. PETER PRIMROSE:** Mr Gazal was accusing him of lying yesterday and the Chair didn't intervene.

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

**The Hon. DAVID OLDFIELD:** I think Ace is just a bit confused. I wouldn't necessarily think he's a liar.

**The Hon. PETER PRIMROSE:** So what are you saying?

**The Hon. DAVID OLDFIELD:** I'm saying Ace is confused. I wouldn't necessarily think he was a liar.

**The Hon. PETER PRIMROSE:** Oh, that's good. Thank you.

**The Hon. JAN BURNSWOODS:** Madam Chair, could I ask you again to ask the members of the Committee to show some courtesy?

**The Hon. JOHN RYAN:** Oh dear. Come on!

**The Hon. JAN BURNSWOODS:** Before it was to witnesses. Now it's to other members of the Legislative Council—

**Ms SYLVIA HALE:** Your hypocrisy knows no bounds.

**The Hon. JAN BURNSWOODS:** —who are not present who have no opportunity to defend themselves. It is outrageous that these two people—

**The Hon. JOHN RYAN:** Oh goodness.

**The Hon. JAN BURNSWOODS:** —are talking about Dr Chesterfield-Evans in terms that they are.

**The Hon. PETER PRIMROSE:** Attacking Arthur Chesterfield-Evans.

**The Hon. JOHN RYAN:** Shame.

**CHAIR:** I ask all members to desist from across-the-table dialogue and address the questions to witnesses.

**The Hon. DAVID OLDFIELD:** Madam Chair, firstly, could I, seeing as the Hon. Jan Burnswoods raised the matter of courtesy, raise the view that it would be appropriate for her to either turn off her mobile phone or give it to a member of staff, as I have, because I do not think it's appropriate for that phone to ring, as it did three or four times yesterday, has already been ringing this morning and if Ms Burnswoods has such important calls that it requires her to leave this meeting then perhaps she should not be here at all.

**CHAIR:** I think that's a good idea for everyone.

**The Hon. PETER PRIMROSE:** People taking mobile phones is a great interest to this Committee, actually.

**CHAIR:** Order! Mr Oldfield.

**The Hon. PETER PRIMROSE:** We should get Mr Bargshoon back about that.

**The Hon. JAN BURNSWOODS:** Yes, what about Bargshoon's daughter's death threats on his mobile phone—

**CHAIR:** Order!

**The Hon. JAN BURNSWOODS:** —and the inability of the Committee—

**CHAIR:** Order!

**The Hon. JAN BURNSWOODS:** —to contact Mr Bargshoon? An inquiry into mobile phones would be very interesting, and Mr Ryan's text messages that arrive during hearings. That would be interesting.

**CHAIR:** Order!

**The Hon. JOHN RYAN:** I beg your pardon? What text messages?

**CHAIR:** Just get on with the questions. Mr Oldfield.

**The Hon. JOHN RYAN:** I had a phone call a couple of days ago—

**CHAIR:** Order!

**The Hon. JOHN RYAN:** —from my daughter.

**CHAIR:** Order!

**The Hon. JAN BURNSWOODS:** Oh, you've got a daughter. Did she make death threats, too?

**The Hon. PETER PRIMROSE:** It wasn't a death threat, was it?

**The Hon. JOHN RYAN:** Oh you're a tacky piece of work, aren't you?

**The Hon. DAVID OLDFIELD:** Tacky, yeah.

**The Hon. JOHN RYAN:** Aren't you are tacky piece of work?

**The Hon. DAVID OLDFIELD:** I think you're being kind.

**CHAIR:** Mr Oldfield.

**The Hon. DAVID OLDFIELD:** Mr Ryan, in your statement that you gave us at the beginning of your evidence originally you were very, very clear in your meeting with Mr Wedderburn and you made a number of allegations, or made a number of allegations as to concerns that Westfield had had over various influences. I won't go through the whole lot of them. There's many there, and they're a part of your statement for anyone to read. I will just note that you were concerned enough about this that you said, "I told Mr Wedderburn that I would be surprised if all these matters were not already the subject of an ICAC inquiry given what had flowed from the daily reports." So I am simply making the point here to begin with that you made it outstandingly clear to us that you had equally made it outstandingly clear to Mr Wedderburn that you were concerned about corruption, et cetera. In Mr Wedderburn's statement to us he even noted particularly, said, "Mr Ryan said the council's role and the developer's relationship with the council was smelly." He went on to talk about how you had named Gazal, Mosca, Bargshoon, talked about dishonest influences behind the project. He specifically said, "I took this to be an anticorruption warning. My anticorruption alarm bell started to ring. As chief of staff it was his responsibility to guard against these things. I told Mr Ryan that any evidence of corruption ought to be referred to the Independent Commission against Corruption." Given that the substantial level of concern that you raised—and rightfully so and is obvious in your statement—and the apparent way this was taken on by Mr Wedderburn does it surprise you that, during the course of this inquiry when we have now had before us the other people that Mr Wedderburn then apparently briefed, including the deputy chief of staff to Minister Knowles and the chief of staff to Minister Beamer, neither of them were actually able to give us any idea of allegations at all?

**Mr RYAN:** Well, when I was last before the Committee, Mr Oldfield, I made it clear that what I brought to Mr Wedderburn were my concerns, not allegations. I think the words I used were, I had no documentary evidence. I had no details, had no—nothing that either I or any legal advisers would regard amounted to evidence worth taking to any authority. But what I was aware of from the public record was a history of very unconventional tactics, et cetera, and that's what I brought to him. So, I didn't make allegations. I didn't invent things. I didn't say anything other than what was on the record at the time.

**The Hon. DAVID OLDFIELD:** Well, it might please you to know then that apparently not having that information to pass on did the trick in it wasn't passed on because the people that these suggestions were passed on to ultimately were not able to tell us anything at all about what was supposedly smelly, what were the problems in the developer's relationships. They really didn't seem to know anything at all, apart from having been warned that there may have been corruption without any details of any kind.

**Mr RYAN:** Well, again, that's your words, Mr Oldfield. I didn't go to Mr Wedderburn saying, "Here is evidence of corruption." I had evidence of unconventional tactics, the extent to which Gazcorp and their officials, their people, would go in influencing decisions and it was in that nature—that was in the nature of what I put to Mr Wedderburn. It wasn't specific allegations A, B, C and D.

**The Hon. DAVID OLDFIELD:** Oh, I agree. That's what I mean. I'm making the point that your non-specific, your non-specificity, whatever, about this whole scenario in fact was continued to be passed down the line in that manner to the point where the people who were being warned were actually certainly unaware of what it was—

**Mr RYAN:** Well, there was certainly—sorry, there was—

**The Hon. DAVID OLDFIELD:** —they were really being warned off.

**Mr RYAN:** There were certain things that I was very specific about.

**The Hon. DAVID OLDFIELD:** Mmm.

**Mr RYAN:** Some of them I've already mentioned here.

**The Hon. DAVID OLDFIELD:** Oh yes. They're in your statement. I acknowledge that.

**Mr RYAN:** You know, the fact of the process at the start between June and November 2002. All of those issues were clearly brought to his attention. In our experience a highly, highly unusual process had unfolded here. That, together with what was on the public record about the unconventional tactics, I think, amounted to something that ought to be properly brought to the attention of the Government.

**The Hon. DAVID OLDFIELD:** Mmm. Well, ultimately, when the message got down to the chiefs of staff and the deputy chiefs of staff involved in those meetings that followed yours the message seemed simply to be that something smelled, but we didn't actually know what it was. So—not suggesting anything were your concerns, it's just an interesting note as to how it progressed from what you said to what Wedderburn said to what was ultimately then taken on and remembered by those who were at the meetings where you, of course, weren't.

Mr Jordan, you might remember that during the course of my questions in your evidence, or your testimony out at Liverpool I asked you about whether Westfield had been reasonably successful in getting land zoned for their own developments in the past, and I acknowledged that you had been with Westfield for 17 years and some of the matters that I was not as informed of then as I am now go back a bit further than that. I did specifically ask you about Eastgardens and, once again, I acknowledged you said at that point you had only been with the company for 17 years and it happened prior to your arrival. Are you familiar at all with what did take place with Eastgardens and the controversy at the time?

**Mr JORDAN:** No, I'm not.

**The Hon. DAVID OLDFIELD:** This has been the subject of parliamentary debate and, no doubt, will be again. But would it surprise you, for example, if I quote Mr Arblaster, who was the member for Mosman at the time, over this matter which I couldn't have imagined could possibly happen today given the scrutiny that we have these days and specifically the media scrutiny we have these days. But Mr Arblaster at the end of this was so outraged, as were many in the debate, that he simply said of this deal that was being alleged between the Government and Westfield at the time, he simply said, "I have read this bill. I have certainly heard all about it. Only two questions need to be asked: How much and who got it?" Does it concern Westfield that there is this apparent recorded history of allegations of dodgy dealings?



**Mr JORDAN:** I'm not aware of the circumstances of Eastgardens, nor am I aware of the circumstances that those comments were made and I can't really comment on it.

**The Hon. DAVID OLDFIELD:** Mr Jordan, back when we had you out at Liverpool and you were asked a number of questions, and I know in part Mr Ryan has talked about this morning, you—I specifically asked you the question, and I understand the way that you answered the question and I acknowledge that in the matter of semantics and the way the questions were asked and the way that you answered them you did answer truthfully. But, see, now I specifically asked the question, "So no-one from Westfield has at any stage met with the Premier on this matter and no-one from Westfield has met with the Premier recently on any matter?" And you said, "Not that I am aware of." You would acknowledge this morning you were indeed aware of the meeting of the 19th between Mr Wedderburn and Mr Ryan and you were aware of that meeting at the time when you answered my question. Whilst I acknowledge that your answer was specific to my question in that there hadn't been a meeting with the Premier, are you aware of the term that my father taught me, which was "lie of omission"?

**Mr JORDAN:** No, I'm not.

**The Hon. DAVID OLDFIELD:** The term "lie of omission" simply describes having information about something and when it is not directly asked for simply omitting to mention it. Now, as the inquiry was very interested in meetings between Westfield and the Government and as you had specific knowledge at the time and, whilst you were not asked, "Was it Mark Ryan or Mr Wedderburn" or similar, you were asked about a number of potentials for meetings with the Government and Westfield. As you had specific information at the time, as you have said here this morning, that a meeting did actually take place with Westfield representatives and the Premier's representatives, why was it that you felt unwilling to disclose that?

**Mr JORDAN:** Mr Oldfield, if you look at the context of the transcript you will actually see the first question that I was asked. I actually volunteered to give this Committee a list of all meetings that we had. I volunteered to give that. I wasn't asked to give that; I volunteered it. I therefore subsequently gave that and then I subsequently answered a number of questions that you asked me, and I answered those questions truthfully.

**The Hon. DAVID OLDFIELD:** I've acknowledged that.

**Mr JORDAN:** There was no hiding of anything.

**The Hon. DAVID OLDFIELD:** Well, there was hiding of something because, if I use your own words, if we look at the context of the transcript it is very, very clear that the inquiry was most interested in meetings between Westfield and the Premier's Department—

**Mr RYAN:** But he'd already offered the list.

**The Hon. DAVID OLDFIELD:** But you knew at the time that that had happened.

**Mr RYAN:** And he knew that it would be on the list.

**The Hon. DAVID OLDFIELD:** Why didn't you offer it in testimony on that day as opposed to simply—

**Mr RYAN:** Because he wasn't asked.

**Mr JORDAN:** Because I offered it in the context of the question that was given to me. I provided that list and then I answered your questions truthfully as they were given to me.

**The Hon. JOHN RYAN:** But evasively.

**Mr JORDAN:** That is not true.

**The Hon. PETER PRIMROSE:** Look, Madam Chair, point of order: It is inappropriate—

**The Hon. JOHN RYAN:** Well, you told us you had information you didn't give us.

**The Hon. PETER PRIMROSE:** for members of this Committee to be attacking witnesses.

**Mr JORDAN:** Excuse me?

**CHAIR:** Order!

**The Hon. PETER PRIMROSE:** The point of this inquiry is to elicit information. It is impossible for witnesses to know what is in the Hon. John Ryan's mind or in the Hon. David Oldfield's mind. It is appropriate for you to draw them back to not attacking witnesses but asking questions, and I would urge you to do so.

**Ms SYLVIA HALE:** To the point of order: I could not agree more with Mr Primrose when he says the purpose of this inquiry is to elicit information. I believe the substance of the complaints about the witness is that he has been less than forthcoming—

**The Hon. JOHN RYAN:** Absolutely.

**Ms SYLVIA HALE:** And has in fact obstructed the eliciting of information.

**Mr JORDAN:** That is not true.

**The Hon. PETER PRIMROSE:** That is an outrageous allegation from you.

**The Hon. JAN BURNSWOODS:** To the point of order: One of the more objectionable parts of Mr John Ryan's interjection was that he was not the person asking the questions. It was, in fact, an extremely discourteous interjection and accusation made by someone who was not asking the questions at the time—which makes his behaviour even more reprehensible.

**The Hon. JOHN RYAN:** Dear, dear, dear.

**CHAIR:** There is no point of order. Can we stick to the questions?

**The Hon. PETER PRIMROSE:** So we are allowed to get into—you've got a bunch of crooks out there—

**Ms SYLVIA HALE:** Your description.

**The Hon. PETER PRIMROSE:** like Gazal and Bargshoon. We can't raise that here but it's okay for these guys to make attacks.

**The Hon. DAVID OLDFIELD:** Was Bargshoon a crook when he was stacking branches for you?

**The Hon. PETER PRIMROSE:** Bargshoon, Gazal and others and a bunch of crooks out there—

**The Hon. DAVID OLDFIELD:** Was Bargshoon a crook when he was stacking branches for you?

**The Hon. PETER PRIMROSE:** But it's okay for this stuff—

**The Hon. DAVID OLDFIELD:** Was Tripodi a crook when he was eliciting cash donations to stack branches for you?

**CHAIR:** Order! Members—

**The Hon. PETER PRIMROSE:** Well, you're bringing this on yourself by being partisan in the Chair.

**The Hon. DAVID OLDFIELD:** Is Tripodi a crook for seeking cash to stack branches?

**CHAIR:** Order!

**The Hon. PETER PRIMROSE:** What outrageous—

**The Hon. DAVID OLDFIELD:** Was Bargshoon a crook when he was stacking branches for you?

**The Hon. PETER PRIMROSE:** This is just a joke of a committee.

**CHAIR:** Do Government members have any questions?

**The Hon. DAVID OLDFIELD:** Do you have to be a crook to actually get into the Labor Party?

**CHAIR:** Order!

**The Hon. DAVID OLDFIELD:** Is it a prerequisite?

**CHAIR:** Order! Mr Oldfield!

**The Hon. JAN BURNSWOODS:** Why don't you tell us about all the sex calls you made from Tony Abbott's office when you worked for the Liberal Party?

**CHAIR:** Order!

**The Hon. DAVID OLDFIELD:** Firstly, it is irrelevant—

**The Hon. PETER PRIMROSE:** Deny it!

**The Hon. DAVID OLDFIELD:** and also untrue.

**The Hon. PETER PRIMROSE:** Oh, yeah.

**The Hon. DAVID OLDFIELD:** And you should know—

**CHAIR:** Mr Primrose, Ms Burnswoods and Mr Oldfield!

**The Hon. DAVID OLDFIELD:** Any way, I won't even bother defending it. It's simply untrue.

**CHAIR:** Order!

**The Hon. PETER PRIMROSE:** Well, yeah—call them to order. That's what I'm asking you to do.

**CHAIR:** Have you got any questions?

**The Hon. PETER PRIMROSE:** At this stage I'm waiting to hear some sensible questions from this lot.

**CHAIR:** No, no, no. His time has expired. Have you got any questions?

**The Hon. JAN BURNSWOODS:** We're still waiting to hear you call Mr Ryan to order for his offensive interjection.

**The Hon. JOHN RYAN:** I didn't make an offensive interjection at all.

**CHAIR:** I have asked all members to stop being offensive to each other and to the witnesses.

**The Hon. PETER PRIMROSE:** They're being offensive to the witnesses. I don't care what these guys say about me.

**CHAIR:** Okay. If you don't have any more questions—

**The Hon. PETER PRIMROSE:** We've got volunteers. These witnesses come in here voluntarily—they haven't been summonsed; they haven't been subpoenaed—and they're abused under privilege by these characters.

**The Hon. DAVID OLDFIELD:** Well, Mr Primrose, I point out that—

**CHAIR:** Order! Order!

**The Hon. DAVID OLDFIELD:** if they didn't come voluntarily they probably would have been summonsed. So I don't know that that is any great—

**The Hon. PETER PRIMROSE:** They came here voluntarily.

**CHAIR:** Mr Ryan has got some questions.

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

**CHAIR:** You may proceed.

**The Hon. JOHN RYAN:** Mr Ryan, do you know somebody called Sarah Taylor?

**Mr RYAN:** Yes, I do.

**The Hon. JOHN RYAN:** Could you explain the nature of your relationship with her professionally?

**Mr RYAN:** Sarah Taylor was a former Government staff member when I worked with the Federal Government in the early to mid nineties or thereabouts. Several years after that Sarah Taylor was for a year or two employed at Westfield in the marketing department.

**The Hon. JOHN RYAN:** Did you work with her when she was working with Westfield?

**Mr RYAN:** I worked, not directly or closely, but I certainly would have seen her quite often. I was aware. I had some involvement from time to time—or ongoing involvement from time to time—with the marketing division.

**The Hon. JOHN RYAN:** Without wanting to be in any way prying, nevertheless it would be fair to ask you: Did you have a relationship which could be considered to be friendly apart from your professional relationship?

**Mr RYAN:** I beg your pardon?

**The Hon. JOHN RYAN:** Well, was she a friend as well as being a colleague?

**Mr RYAN:** No, no.

**The Hon. PETER PRIMROSE:** This is getting way outside our terms of reference—

**The Hon. JOHN RYAN:** I don't think so; not at all.

**Mr RYAN:** No—

**CHAIR:** Mr Ryan has answered the question.

**The Hon. JOHN RYAN:** The reason I asked you that question is that quite obviously Ms Taylor now works for Mr Knowles. Have you had any contact with Ms Taylor on behalf of Westfield in dealing with Mr Knowles's office?

**Mr RYAN:** I think I have spoken to Sarah Taylor probably once in July this year. That was simply a very short conversation in which I alerted her to the fact that Westfield had issued a press statement that mentioned Minister Knowles. And that's as far as it went. The conversation would have lasted 10 or 15 seconds.

**The Hon. JOHN RYAN:** Why was that necessary?

**Mr RYAN:** Because I had mentioned Minister Knowles and as a courtesy I notified her.

**The Hon. JOHN RYAN:** So you were speaking to her in her official capacity as Mr Knowles's Chief of Staff.

**Mr RYAN:** Well, I knew she worked for Mr Knowles.

**The Hon. JOHN RYAN:** But that was the purpose of your call as a—

**Mr RYAN:** It was to ring up and let her know, just as I would if I was issuing a press release in similar circumstances about any other person I might let them know. So—

**The Hon. JOHN RYAN:** I wasn't suggesting anything improper. But it was not as a friend or as a former colleague; you were notifying her—

**Mr RYAN:** It was because I knew her and I thought it would be right to let her know that I was issuing this statement given that the Minister has been the subject of the thing. As I say, the phone call lasted perhaps 10 or 15 seconds.

**The Hon. JOHN RYAN:** I'm not suggesting—

**Mr RYAN:** But I'm not a friend of Sarah Taylor's—I don't see her socially. After she left the employ of Westfield I'm not even sure what she did or where she went. But I've never seen her since then.

**The Hon. JOHN RYAN:** Has she been present at any of the briefings that Westfield conducted with Mr Knowles?

**Mr RYAN:** No.

**The Hon. JOHN RYAN:** You may not be aware.

**Mr RYAN:** No.

**The Hon. JOHN RYAN:** There might be other people at the table who would be able to inform us.

**Mr JORDAN:** Not as far as I am aware.

**Mr MILES:** Nor me.

**The Hon. JOHN RYAN:** All right. Mr Ryan, I take you back to some of the evidence that you gave us at the outset in which you produced a document, and the document drew lines to people and made various suppositions about their relationships to each other. Would you be aware of the fact that this Committee has received subsequent submissions and people have come to this Committee and given oral evidence where they have denied some of the relationships that you have drawn to them in those documents? I think in particular of Mr Paciullo, who found it particularly offensive that any relationship between himself and Mr Phuong Ngo was drawn. Are you aware of the fact that there have been people who dispute your diagram?

**Mr RYAN:** I'm not aware of the evidence that these people have given. From memory, the diagram—the box—that mentioned Phuong Ngo to Liverpool council was to Liverpool council, of which Mr Paciullo was the mayor. I regret if Mr Paciullo took offence that it was directly referring to him. It was meant to—and I think from memory; I would stand corrected on this—but I thought the line; there were straight lines and there were dotted lines on that chart. Straight lines were to represent fairly clear and well-known connections; dotted lines, less clear, less solid connections. And it was to box that said "Liverpool council". The person you mentioned had a long history that was on the public record of involvement with the Liverpool council and councillors over a long period of time, and Mr Paciullo was the mayor. But as I say, I haven't seen the evidence or seen the detail of what people are disputing about that chart. I'd have to review that in detail and then respond further, I guess.

**The Hon. JOHN RYAN:** Well, do you understand that I think Mr Paciullo gave evidence to this Committee that he had never met Mr Ngo—I think at all or, if he had, his knowledge of him was extremely cursory?

**The Hon. JAN BURNSWOODS:** Mr Paciullo's memory was pretty vague on everything, wasn't it?

**CHAIR:** Order!

**The Hon. JOHN RYAN:** I think somebody might be making an offensive interjection.

**Mr RYAN:** I don't know.

**The Hon. JAN BURNSWOODS:** Yes, but it was about you, Mr Ryan, not about the witnesses.

**CHAIR:** Order!

**The Hon. JOHN RYAN:** I thought it was about Mr Paciullo.

**The Hon. JAN BURNSWOODS:** No, it was actually about you.

**The Hon. DAVID OLDFIELD:** You said, "Mr Paciullo".

**The Hon. JOHN RYAN:** But any way, Mr Ryan—

**CHAIR:** Order!

**The Hon. JAN BURNSWOODS:** That's right I did but you obviously didn't hear the rest of it.

**The Hon. JOHN RYAN:** This Committee, if it's demonstrated anything, is that it's possible to draw lines between anyone and anything at any time. For example, evidence was given yesterday that Mr Gazal and Mr Mosca might have relationships, knowingly or unknowingly, with Mr Knowles. You can draw lines between yourself and Ms Taylor and start talking about webs of influence, however you choose to draw them. Do you really think, in the knowledge of that sort of thing, that the "web of influence" you described to Mr Wedderburn was fair, particularly given one of the lines we could possibly have drawn is that you had an association with someone who was the Chief of Staff to Mr Knowles? I'm not saying there is anything improper—

**The Hon. PETER PRIMROSE:** No, that's why you are just raising it here.

**Mr RYAN:** No, but—

**The Hon. JOHN RYAN:** What I am simply saying is that—

**The Hon. PETER PRIMROSE:** You have to have an offensive mind.

**The Hon. JOHN RYAN:** Well—

**The Hon. JAN BURNSWOODS:** It's like Ross Cameron: the Christian cover hides a cesspool.

**CHAIR:** Order!

**The Hon. JOHN RYAN:** When you've finished. It's possible to draw those lines from anyone to anyone if you choose—

**The Hon. PETER PRIMROSE:** If you've got an offensive mindset.

**CHAIR:** Order! The question is perfectly reasonable

**The Hon. JOHN RYAN:** I'll even accept the member's interjection—if you have an offensive mindset—

**The Hon. PETER PRIMROSE:** Yes.

**The Hon. JAN BURNSWOODS:** Well you certainly do.

**The Hon. JOHN RYAN:** What I'm saying is that many of the people that you named in that diagram have found it incredibly offensive that you've drawn the lines in the fashion that you've done and yet you yourself was vulnerable to almost exactly the same charge, as having someone could be described—

**Mr RYAN:** And I have been. Apparently there was a chart produced here showing webs of influence. And I think the key difference was that every institution or person mentioned on my chart had some involvement in some way, shape or form with the Orange Grove Road matter—either as a Lord Mayor, either as a councillor, either as a contractor to the Orange Grove centre et cetera. I have relationships everywhere as everybody else does but none of them bear on the matter that is before this Committee. None of them have anything to do—to my knowledge, Sarah Taylor joined Minister Knowles's staff in the recent past when this issue was more or less either completed or was well advanced. I've had no involvement with her on this matter. As I say, I've not seen her for many years—probably since 1997, 98.

**The Hon. JOHN RYAN:** Well, we received evidence yesterday that Ms Taylor was acting as Mr Knowles's Chief of Staff during the period of time which was very relevant to the consideration of this matter.

**Mr RYAN:** Not when I came into any contact with her, certainly.

**The Hon. JOHN RYAN:** Well, so you say—

**Mr RYAN:** Look, I'm happy for people to draw charts. I have relationships with people in Government; I have relationships with people in the Liberal Party. On the web of influence chart that was produced here the other day you could have included somebody called Matthew Abbott, who's a former John Brogden staffer, who is my closest support staff at Westfield. On that web of influence you could have included a gentleman called Geoff Hole, who was a former press secretary to National Party leader Ian Sinclair. All of these people are thorough professionals and well regarded and I know them all and you could stick them all on the chart. But what they had to do—they didn't have any bearing on or involvement in any way, shape or form on Orange Grove Road. So I accept that you could make these linkages but I think it comes back to what was relevant on this matter—on Orange Grove Road.

**The Hon. JOHN RYAN:** Well, can you tell me what involvement Mr Ngo had with Orange Grove Road?

**Mr RYAN:** Only what I can tell you from the public record.

**The Hon. JOHN RYAN:** I think he was in gaol during the entire time of its consideration, wasn't he?

**The Hon. JAN BURNSWOODS:** Yeah, but he had a mobile phone.

**Mr RYAN:** No, I can only—

**The Hon. DAVID OLDFIELD:** It was properly supplied so that he could branch stack for you, was it?

**The Hon. JOHN RYAN:** I mean, it's a fact: Mr Ngo has been in gaol I think for about five years, during any time in which the Orange Grove matter has been, in terms of a factory outlet, its consideration. Mr Ngo could not have had anything whatsoever to do with it. So by your own definition he should not have been on that diagram.

**Mr RYAN:** Well, I think I explained at the time that the diagram represented a decade-long lobbying effort by Mr Gazal on the Orange Grove site. As far as Mr Ngo is concerned, my only knowledge of his involvement—direct knowledge; what I know of—is what I've read on the public record that's freely available that talks about his involvement as a lobbyist on behalf of Mr Gazal on Orange Grove Road in 1995, where he approached councillors—I don't need to go through the material again; it's available. But that was his involvement back then. I made very clear in my statement that my concerns were not something that were based

on a single incident or one cursory event. It was a concerted pattern over many, many years—up to a decade—that involved Mr Ngo back then.

His involvement back then, from what I have read, was not peripheral, it was central. His involvement with the councillors was variously described as being aggressive, tenacious and involved a whole lot of the other material I have already put on record. So, in that context, in terms of the history of the site, I thought it was relevant to include that on the chart.

**The Hon. JOHN RYAN:** What serious evidence suggests that Mr Ngo was tenacious or any other sort of description? They are words of your own.

**Mr RYAN:** They are words I have read that people have put on the public record. I can provide that. I would prefer not to traverse this territory again, but the involvement of Mr Ngo went to the Orange Grove site in the mid-1990s, where he is alleged to have approached a number of councillors, made offers to certain councillors, et cetera. Those councillors who had been approached described his behaviour as tenacious, aggressive and words to that effect—those exact two words and other words I cannot recall. They are all on the record and I can provide that if it is helpful to you.

**The Hon. JOHN RYAN:** The only thing that arises from your answer, Mr Ryan, and I have to make the comment, that your knowledge of these things appears to be quite extensive and quite well informed, yet when we ask you for the exact words you used with Mr Wedderburn we get answers like an, "I do not recall" or this was the effect.

**Mr RYAN:** That is a verbatim conversation. If I cannot remember exactly what I said in a meeting that happened six months ago, I cannot invent the words. But, if I am referring to something that is on a document that I can go back and read—and I can read it to you right now—that is a different matter. It is there in black and white. If I had a transcript of what I said to Mr Wedderburn, I could provide that to you, but I do not.

**The Hon. JOHN RYAN:** But you have barely been able to use a word, not a single word have you told us that this is a word I said to Mr Wedderburn, yet you can tell us about what other people said about Mr Ngo.

**Mr RYAN:** I have explained, because it is in black and white, and on the record. I have told you at some length and in some detail my recollection of what I said in a meeting six months ago, or however long ago it was.

**The Hon. JOHN RYAN:** I think you are underestimating your own intelligence, Mr Ryan.

**The Hon. PETER PRIMROSE:** For heaven's sake, Madam Chair, we again have this person attacking witnesses. It is inappropriate for members of Parliament to be attacking citizens of this State, and I ask you to draw the member's attention to this basic courtesy. Let us get into each other but not attack witnesses.

**CHAIR:** I think the record will show there was no attack; quite the opposite.

**The Hon. JOHN RYAN:** Mr Ryan, I put it to you, whether you intended it or not, you put a pretty disparaging picture to the highest levels of government about the motives, about the operations of Mr Gazal and his development, and whether you intended it or not, it clearly had a dramatic impact on how the Government considered that proposal into the future. Yet, you have been unable to give us the specific—has the honourable member finished?

**CHAIR:** Government members will stop interrupting.

**The Hon. PETER PRIMROSE:** There are no rules, remember?

**CHAIR:** Just out of courtesy to the witnesses, can you stop—

**The Hon. JAN BURNSWOODS:** Courtesy? You believe in courtesy?

**The Hon. PETER PRIMROSE:** It is okay to insult them and accuse them of being liars but it is not okay—



**CHAIR:** Order! I can tell they are trying to concentrate on the question so they can answer it properly, and you are interrupting.

**The Hon. JOHN RYAN:** I put it to you—

**The Hon. JAN BURNSWOODS:** I think it was poor Mr John Ryan who was being slightly distracted, poor possum.

**The Hon. JOHN RYAN:** If the Hon. Jan Burnswoods wants to get into name-calling, I can think of some really good names to describe her.

**The Hon. JAN BURNSWOODS:** Okay, go ahead.

**The Hon. DAVID OLDFIELD:** Do some of them relate to when she was a school teacher, John?

**The Hon. JOHN RYAN:** Mr Ryan, I put it to you that you gave a very disparaging description of Mr Gazal, Gazcorp, its associations and its motives, which obviously was going to have a very adverse impact on how this matter was going to be considered by the New South Wales Government?

**Mr RYAN:** All I can say in response, Mr Ryan, is that I took to the Government my concerns. Those concerns were based on issues that were on the public record for anybody to find. What the Government did with those concerns and how it subsequently acted upon them was a matter for the Government. I have made that clear in my evidence last time I was here. What the Government did with that, how it decided, was a matter for it. I cannot say any more than that.

**The Hon. JOHN RYAN:** Can I ask you some further questions? Can you describe to me the manner in which you contacted the office of John Brogden, the Leader of the Opposition, and the phone calls you had with Mr Peter Fraser?

**Mr RYAN:** Yes. I will stand corrected on the dates but I think it may have been July 14, 15, around there.

**The Hon. JOHN RYAN:** I think you are correct.

**Mr RYAN:** I had been told that morning that Mr Brogden had been on radio making disparaging comments about Westfield, and I was given a precis of what he had allegedly said. It amounted to, in effect, that he had been highly critical of Westfield and suggested or implied that Westfield had acted improperly and that he wanted to know what threats or promises Westfield had made to the Government. Immediately upon hearing that, I rang his office and asked to speak to Mr Brogden. I was told he was unavailable. I spoke to, I think it was, Peter Fraser and I told him that if what I had been told was true about what Mr Brogden was saying, I would be upset about that because I could assure him and he should assure Mr Brogden that Westfield had made no threats or promises and had not acted improperly in any way whatsoever on the Orange Grove matter. I left it at that, more or less.

Later in the day I received a transcript of the interview, which went somewhat further. Mr Brogden's remarks went somewhat further than what I had been given in the precis, and I rang Mr Fraser back. He said to me, "How are you going, mate?" I said, "I was feeling a little bit better before I read this transcript, because it actually goes a bit further and it does actually talk about or suggest that Westfield has made threats or promises to the Government. Again I reiterate to you and ask that you transmit this directly to the Leader of the Opposition that Westfield has done no such thing and that if Mr Brogden intends to give further interviews he should bear that in mind." I cannot be sure of this, but I am reasonably sure I said that Mr Steven Lowy might like to or would be contacting Mr Brogden to talk to him about it. That is where it was left, to the best of my recollection.

**The Hon. JOHN RYAN:** Did you use words "We are big boys" and did you suggest that Mr Brogden should put up or shut up?

**Mr RYAN:** Again, I cannot give you a verbatim account but I can remember saying words to the effect, "Look, Peter, we are big boys and we can cop criticism." We cop criticism a lot, we are a large company. From time to time we are accused of things. From time to time Westfield gets it wrong. We have many retailers. We have many, many employees and occasionally we do not do the right thing. The general approach in those situations is to say yes, we have done wrong here and to try to reach a settlement or to apologise for whatever has gone wrong and move on. It was in that context that I was saying that we are big boys and we are used to being criticised and we can cop their criticism but what we cannot let go unchallenged is unfair criticism, and you should be aware that there is nothing improper here and Mr Brogden should be aware of that. It was in that context that I used those words.

**The Hon. JOHN RYAN:** Did you use the words "Put up or shut up"?

**Mr RYAN:** I cannot remember using those words but, again, had I used those words I would not see anything inappropriate about it, given the types of remarks that Mr Brogden was making without any supporting evidence.

**The Hon. JOHN RYAN:** Did you demand to speak to Mr Brogden personally?

**Mr RYAN:** I asked to speak to him, yes.

**The Hon. JOHN RYAN:** Did you say, "Are you telling me that the Leader of the Opposition is unavailable all day to take calls?"

**Mr RYAN:** I could have said that, yes. I could have said that, because I had in mind that when these comments were brought to the attention of my chief executive, I believed he might want to talk to Mr Brogden, so I was trying to ascertain whether Mr Brogden might be available later in the day to take the call from, if not me, then from my chief executive.

**The Hon. JOHN RYAN:** Would you say the conversation was cordial or agitated?

**Mr RYAN:** Given the conversations I have had over time, Mr Ryan, it was not what I would call a heavy conversation at all. It was reasonably cordial. In fact, a staff member of mine was present and when I became aware that Mr Brogden or his staff were most upset with what they thought was bullying, my staff member expressed utter surprise and amazement that my phone call was interpreted in that way.

**The Hon. JOHN RYAN:** Your staff member might be used to different phone calls.

**Mr RYAN:** He might be, because he is a former Brogden staffer. He expressed utter amazement to me. He said, "You have got to be joking. These blokes regard that as a heavy phone call or serious phone call? Goodness me." Here is the Leader of the Opposition implying that Westfield has made threats or promises to get this decision from the Government, and I am not allowed to make a phone call asking to speak to the leader to set him straight on it. That was our position and it certainly was not a heavy phone call. To the best of my recollection it ended fine. I said, "See you later, mate. You might be getting a call from us later in the day," or words to that effect.

**Ms SYLVIA HALE:** Mr Ryan, I was wondering if you can tell the Committee what the following list of people have in common: Sarah Taylor, Michael Fullilove, Alan Gyngell, Paul Keating and yourself?

**Mr RYAN:** What we have in common?

**Ms SYLVIA HALE:** Yes. Have you all worked—perhaps I can tell you and you can tell me if I am correct or not. Have they all worked within the office of the former Prime Minister Mr Keating?

**Mr RYAN:** At various times they have.

**Ms SYLVIA HALE:** They are all members of the Labor Party?

**Mr RYAN:** I cannot answer that. I am not sure. No, I do not think that is true.

**Ms SYLVIA HALE:** They are working for or have worked for either Westfield or for the Lowy institute or companies associated with Mr Lowy?

**Mr RYAN:** Sure. Over the years I have worked with many, many people and from time to time I seek to employ those, because I know they are good people.

**Ms SYLVIA HALE:** So you would say there is quite a strong influence by former key staffers within the Labor Party at Westfield and vice versa?

**Mr RYAN:** No, I would not say that, and I would not say it was any stronger than the influence between the Liberal Party and Flagship Communications or between the Liberal Party and staff that work for Alan Jones or anybody else.

**Ms SYLVIA HALE:** I am quite prepared to believe that Westfield has also employed very many former Liberal and National Party staffers. May I say it is concerted policy on the part of Westfield to—

**Mr RYAN:** To hire good people. The people you have mentioned, Ms Hale—for example Alan Gyngell is one of the most highly regarded foreign policy analysts and diplomats in the country's history. That is widely acknowledged. In fact the Minister for Foreign Affairs made that very point not one week ago. He said you could not have got a better man for this job. He is held in that high a regard by everybody across the political spectrum, as is, I think, every other person that you have mentioned.

**Ms SYLVIA HALE:** It is also true there is a relationship between Mr Lowy and Mr Carr?

**Mr RYAN:** I have explained that relationship.

**Ms SYLVIA HALE:** You said your concerns about Liverpool, of the proceedings in relation to it, were so great and they seem to have been based on this connection and influence that was being exerted on the process.

**The Hon. JAN BURNSWOODS:** Is Ms Hale asking a question or making a speech?

**Ms SYLVIA HALE:** May I ask you, would it not be an equally valid interpretation to say that Westfield was in a position to exert even greater influence on the decision whether or not to rezone the Orange Grove site?

**Mr RYAN:** No.

**Ms SYLVIA HALE:** You think that is not a reasonable conclusion?

**Mr RYAN:** No.

**Ms SYLVIA HALE:** Would you agree that it has been precisely that allegation that has sparked this entire inquiry, the allegation that it was Westfield leaning on the Premier who then subsequently leaned on his Ministers and, as a result, that rezoning was stifled?

**Mr RYAN:** There have been many allegations made, most of them unsubstantiated. That is a matter for this Committee to test. I cannot speak for them. That might be your view, it might be somebody else's view, it might be the man in the street's view. I cannot help you. Raising people like Alan Gyngell in this environment, in this context, is just so out of order. It is out of order. He has nothing to do with this.

**The Hon. JAN BURNSWOODS:** As I said, Senator McCarthy had nothing on Senator Hale over here.

**Ms SYLVIA HALE:** But you would say that it is extraordinary then for someone such as Sarah Taylor, who has gone from Mr Keating's office, gone to Westfield and then goes to become the chief of staff for the Minister for Planning, you do not find that a chain of influence, a chain of connection?

**Mr RYAN:** No.

**Ms SYLVIA HALE:** You do not find it yourself, a former Keating staffer, going to Westfield, Director of Corporate Affairs, and then getting immediate, almost immediate, entrée to Graeme Wedderburn, the Premier's chief of staff?

**Mr RYAN:** But I have immediate entrée to John Brogden's office. Can I say this, our company finds it far easier to get in touch with the Leader of the Opposition than it does with the Premier or the Premier's office. So this issue about entrée, I mean I am experienced, and have been for a long time, dealing with governments and speaking with governments, and when a major global organisation that has grown up in this city, that has invested billions of dollars in this State, seeks a meeting at high levels of government on either side of the political fence or with any political leader, generally speaking a meeting of access can be arranged. There is absolutely nothing unusual about that. Sometimes it can take one phone call, sometimes it takes a few, depending on people's diaries and other pressures, but eventually you know that you can arrange a meeting.

**Ms SYLVIA HALE:** Can I suggest to you, Mr Ryan, that what we are looking at is a rezoning which has been put forward by a person of impeccable qualifications, goes through the department, almost passes through every stage of the department with the tick of approval and then suddenly it runs into a brick wall, and that brick wall is constructed after your meeting with Mr Wedderburn? And we have a context—and if we are talking about webs of influence—there is a context of a very substantial web of influence constructed by Westfield, which has exercised influence upon the Labor Party, and it has been smoothed by the presence of donations by Westfield to the Labor Party of some \$850,000.

**Mr RYAN:** I am not sure what the question is.

**Ms SYLVIA HALE:** The question is do you believe that is a reasonable construction to put upon the chain of events that has occurred?

**Mr RYAN:** Absolutely not.

**The Hon. DAVID OLDFIELD:** Mr Jordan, just coming back to where I was finishing off, before we were interrupted by Jan Burnswoods towards the end of my last session of questions, in relation to the question of supplying a list of meetings after the fact of the inquiry's questions to you out at Liverpool. Do you acknowledge that Westfield only supplied the list of meetings after it was publicly known that that meeting had taken place? In other words, you only told us you had the meeting after we already knew you had had it?

**Mr JORDAN:** No. At that time I said I would supply that list, and that is what I did.

**The Hon. DAVID OLDFIELD:** Yes, but you did not tell us about the meeting when you were asked about it. You said you would supply a list and when the list came the list only came after it was already publicly known that that meeting had occurred. You are not aware of the timeline?

**Mr JORDAN:** I understood the timeline, but I can only do what I said I would do. I did that. I told this Committee I would supply it with a list of those meetings. I did that. I did that in the most timely manner which I could, and I did it as soon as possible. Now what happened after that was out of my control.

**The Hon. DAVID OLDFIELD:** Looking back at it, given the series of events and the way it now appears, would you acknowledge that it might have been better to tell us about the meeting at the time when you were being asked?

**Mr JORDAN:** No. I said I would supply a list. I volunteered to supply that list. I did that. Then I answered all your questions truthfully.

**The Hon. DAVID OLDFIELD:** Can I put this to you, Mr Jordan, we have this situation where the Premier begins by denying that he had meetings with Frank Lowy, which we are taking as being the case at this point in time—

**Mr RYAN:** It is the case.

**The Hon. DAVID OLDFIELD:** Well, we are taking it as being the case at this point in time because we are only going on what the Premier says. Did the Premier—

**Mr RYAN:** Mr Lowy has also said that.

**The Hon. DAVID OLDFIELD:** Have we actually got anything in writing from Mr Lowy to say that?

**Mr RYAN:** There has been a statement in the press attributed to him.

**The Hon. DAVID OLDFIELD:** We have a situation where the Premier commits this, as I will say again, live omission. His chief of staff has a meeting with Mr Ryan and when all of this is going on and there is such an outcry and such controversy over Orange Grove the Premier is essentially in denial that there has been any interaction because he has not been asked the direct question of "Was it you? Who was it? How did this happen?" So you have got the Premier in this live omission scenario.

**The Hon. PETER PRIMROSE:** Point of order: Madam Chair, I again raise the point of order that in relation to debate involving other members of Parliament that it is unparliamentary to be attacking members in the way that the Hon. David Oldfield is doing. He is perfectly in order to ask questions but not to attack other members of Parliament. I would ask you to draw him back to simply asking a question, not making unsubstantiated allegations against other members.

**CHAIR:** Mr Oldfield, you might rephrase the question.

**The Hon. DAVID OLDFIELD:** We come back to the situation where that has occurred; we have a situation where you are asked about meetings; you do not tell us; you later supply a list after we already know the meeting has taken place by virtue of other evidence that we have gathered; we have the Premier saying, once this meeting is known to have occurred, "Oh, but it didn't matter because it didn't influence the Government". Can you acknowledge at all how this perception can be created that you do not tell us about a meeting, he does not tell us about a meeting; when the meeting is found out by evidence from other places we have him saying, "Oh yes, but it didn't matter because it didn't influence us", but can you see the perception that the influence, whether it happened or not, appears to be there because Westfield got what they wanted?

It would have been far, far more believable, where the Premier is concerned, if he had gone the other way. If we had a situation where Orange Grove had in fact not been stopped then it would have been believable by everybody when the Premier said, "It didn't influence us". It is very difficult to have a situation where you do what someone wants but at the same time say they exerted no influence, even though they met with you. Can you acknowledge that?

**Mr JORDAN:** What is the actual question here? I have heard you talk. What is your actual question?

**The Hon. DAVID OLDFIELD:** Public perception—and I will have to preface this with being my view of public perception—my view of public perception, from what I have seen in the media, what I have heard on talkback radio and so on, is that Westfield were able to influence the Premier; the Premier failed to note that a meeting had taken place; after the meeting had been disclosed by evidence gathered in other places the Premier was forced to acknowledge the meeting took place but his defence was he did not raise the fact that it happened because it had not influenced the Government. But the people who sought the meeting finished up getting the result they wanted. Is it not more believable that the Premier is telling the truth if Westfield had not got the result they wanted?

**Mr JORDAN:** No necessarily. If the Premier stated what happened, and I have no reason to disbelieve him, I do not believe so.

**The Hon. DAVID OLDFIELD:** Would you acknowledge that it is understandable what the public perception may be? I am not suggesting it is true.

**Mr JORDAN:** We talked about this the first time I was here. I do not know what the public's perception is. I read the papers, like you and I do; the matter is, there are facts and there are perceptions. We are dealing in facts here, as far as I am aware. The facts of the matter have been stated quite clearly and I think they are part of public record.

**The Hon. DAVID OLDFIELD:** Well, what is fact and what is fiction is not something that has necessarily been put together because at the moment we have a whole series of testimony, we have certain evidence and we have no conclusion. So I would suggest to you that at this point in time the facts of the matter are not entirely known.

**Mr JORDAN:** Well, I guess that is what this Committee is here to find out.

**The Hon. DAVID OLDFIELD:** Let's hope so.

**The Hon. PETER PRIMROSE:** Just a couple of questions to Mr Ryan. Do you know Anthony Roberts, the member for Lane Cove?

**Mr RYAN:** No. I only know that he is a member of Parliament.

**The Hon. PETER PRIMROSE:** Do you know that he was a former director of Flagship Communications?

**Mr RYAN:** I do now, yes. I have learnt that in the last week or two.

**The Hon. PETER PRIMROSE:** Do you know that he has a close relationship with Mr Gazal?

**Mr RYAN:** I have heard that as well. I have heard that Mr Gazal had retained Flagship Communications to act as his PR advisers and/or lobbyists, and that Flagship Communications comprises former Liberal Party staffers, press secretaries and staffers, and that they have been providing advice to both Mr Gazal and to, I believe, members of Parliament on the Orange Grove matter.

**The Hon. PETER PRIMROSE:** And you are aware that one of those members of Parliament who has been receiving material from Mr Gazal is Mr Anthony Roberts?

**Mr RYAN:** Yes. I understand there were communications—was it last week or the week before—faxes, et cetera, sent with lists of questions for either Mr Roberts or other members of the Opposition to ask in the Parliament, coming from Mr Gazal.

**The Hon. JOHN RYAN:** You mean Westfield has not been supplying details to the Government to assist them in their attack on Mr Gazal?

**Mr RYAN:** No.

**The Hon. JOHN RYAN:** Are you absolutely sure of that?

**Mr RYAN:** To my knowledge.

**The Hon. PETER PRIMROSE:** It would be great if I could finish my questions.

**The Hon. JOHN RYAN:** Mr Jordan, has Westfield provided material to assist Government members in their attack on Mr Gazal?

**Mr RYAN:** We have provided some material to the Government, but it has been to do with their process of jobs and Drake International and so on.

**Mr JORDAN:** I am not aware of any information that we have given to the Government.

**The Hon. PETER PRIMROSE:** So in this case then, Mr Anthony Roberts and the Opposition has been receiving information and, what is the expression, talking points directly from Mr Gazal in relation to this matter?

**The Hon. JOHN RYAN:** Well, so what?

**Mr RYAN:** That is my understanding, but I am basing that on material that has apparently been put forward in the—

**The Hon. JOHN RYAN:** Westfield gave a few talking points to Mr Wedderburn.

**The Hon. PETER PRIMROSE:** It is very interesting that this has obviously struck a nerve with the Opposition.

**The Hon. JOHN RYAN:** Not at all. I just think that you are making an allegation that is unfounded.

**The Hon. PETER PRIMROSE:** What is the allegation?

**The Hon. JOHN RYAN:** The allegation seems to be that Mr Gazal is doing something improper by making representations to a member of Parliament. He is entitled to do it. He has admitted it. In fact, I think we have discussed his contact with Mr Roberts in his evidence. He actually said he made a representation to Mr Roberts and asked Mr Roberts to make representations to Mrs Beamer on his behalf. What's the big deal?

**The Hon. PETER PRIMROSE:** And, as we have just heard evidence, Mr Roberts, who is a former director of Flagship Communications, has been receiving also information from Mr Gazal.

**The Hon. JOHN RYAN:** I think their offices are next door to each other, Mr Primrose.

**The Hon. PETER PRIMROSE:** That is interesting. Thanks for your information. Thank you, Mr Ryan, for that.

**The Hon. JOHN RYAN:** Gazcorp's office is located in the same building as Mr Roberts' electorate office.

**The Hon. PETER PRIMROSE:** That is also good information, thank you, Mr John Ryan.

**The Hon. JAN BURNSWOODS:** Yes, it was the same building where the strange events occurred in the car park too.

**The Hon. JOHN RYAN:** It is the same office where the Prime Minister's office is.

**The Hon. PETER PRIMROSE:** That is interesting as well.

**The Hon. JAN BURNSWOODS:** That is right. That was the point about the stories about the cars, was it not, because, given that it was the Prime Minister's office as well, the security and the CCTV cameras are quite detailed.

**The Hon. JOHN RYAN:** Are they? Do you know something about them, do you?

**The Hon. JAN BURNSWOODS:** Mr Ryan, still on the subject of the links between Gazal and the friends in the Liberal Party, are you familiar with the comments recently made by Mr Brogden at the Property Council function—it may have been the \$1,000 a head Property Council function fundraiser, or it may have been another Property Council function—

**The Hon. JOHN RYAN:** You mean the Labor Party doesn't have \$2,000 a head dinners?

**The Hon. JAN BURNSWOODS:** —in which he spoke in support of centre's policy?

**Mr RYAN:** Yes, I am aware of it. I was not present but I am aware of what was said there, and I am told that he made a strong defence of centre's policy.

**The Hon. JAN BURNSWOODS:** In the light of that, and obviously your knowledge of the principles which underlie the centre's policy, does it seem strange to you that he is prepared in the case of Orange Grove to act so contrary to the principles of the centre's policy?

**The Hon. JOHN RYAN:** To save 400 jobs.

**Mr RYAN:** Yes, the answer is yes—

**The Hon. JOHN RYAN:** You guys don't care about jobs.

**Mr RYAN:** —given that Mr Brogden is a former shadow planning Minister. So Westfield has had several meetings with Mr Brogden over a number of years. In, I would say, almost every one of those meetings the first and probably only agenda item would have been State planning policies, centre's policy, SEPP66. So we have been meeting, and I assume many, many other shopping centre operators have met with Mr Brogden over years, and not once in any of these meetings has he suggested anything other than total support for what has been a bipartisan policy in New South Wales for more than 20 years, that is, that major retail centres should be developed in these identified centres where public infrastructure, public investment and private investments can be maximised, and around transport hubs and the like. Mr Brogden has always suggested to us that that was a sensible policy and never gave us any reason to doubt that he would in any way be shifting from that policy until this issue came along.

**The Hon. JAN BURNSWOODS:** Can I ask you why you think Mr Brogden has taken such a contrary view in relation to this particular development?

**Mr RYAN:** That would be asking me to comment on politics—

**The Hon. JOHN RYAN:** I think Mr Brogden has made that pretty clear; it is called 400 jobs.

**Mr RYAN:** —and Mr Brogden's position and where he stands in terms of his own position and so on. In my current role I do not feel that I should be entering into that character—

**The Hon. JOHN RYAN:** Social and economic reasons, mentioned by Ms Kibble.

**The Hon. JAN BURNSWOODS:** You say then that what we would need to do would be to leave it—to sum up, I think the earlier statement you made is that over the years, both in his former capacity as shadow Planning Minister and his more recent capacity as Leader of the Opposition, including the period when he acted as a paid consultant on some of these matters as well, his general statement and belief have been in accordance with centres policy and that his attitude in relation to Orange Grove sticks out like a sore thumb, to use a colloquialism?

**Mr RYAN:** You could put it that way and all I would be prepared to say is that I am sure, I expect, Mr Brogden sees some political advantage in taking the position he has on this but, beyond that, I am not prepared to comment.

**The Hon. JOHN RYAN:** Madam Chair, I want some clarification about some documentation.

**CHAIR:** Mr Ryan wants to go through the documents to make sure that we know what has been tendered to the Committee.

**The Hon. JOHN RYAN:** Recently Westfield tendered some material to the Committee on 9 September and there is a document running to three pages entitled "Executive Summary: Alternatives available to Department and Minister". What was the purpose of that document and its history?

**Mr RYAN:** I think that document was prepared by one of our development executives as a background note on the issue generally. I am not intimately familiar with it. It is a briefing paper that was prepared. I saw this before I went to the Wedderburn meeting, but it may have been prepared prior to that as part of other submissions to the department.

**The Hon. JOHN RYAN:** Is this the material that you took with you to the Wedderburn meeting?

**Mr RYAN:** I could have had this in my folder, yes.

**The Hon. JOHN RYAN:** And that is why we have got it?



**Mr RYAN:** I may have done.

**The Hon. JOHN RYAN:** Did you leave it with Mr Wedderburn?

**Mr RYAN:** Not to my knowledge.

**Mr MARSHALL:** No.

**Mr RYAN:** Not to my knowledge. I do not think we did.

**The Hon. JOHN RYAN:** This question might best be answered by Mr Miles. Do you recall writing a letter on 27th April to Mr Gary Prattley, of which you have given a copy to the Committee: "Re: Draft Liverpool LEP 1997 Amendment No. 92 Rezoning/Outlet Centre". Do you know the letter I am speaking about?

**Mr MILES:** Yes.

**The Hon. JOHN RYAN:** It commences:

You may be aware that certain information on this matter was tended in the form of an Affidavit to the Supreme Court of NSW on Thursday 22 April 2004. We understand from these documents that the Department is relatively advanced in its preparation of the proposed s.69 report to the Minister. Also, from the additional report prepared by HillPDA, under instructions from yourselves, that the aspects of draft SEPP 66 remain important to your considerations.

Could you explain what was the material that was of concern to you and what your concern was expressed in that paragraph?

**Mr MILES:** I think that it was largely revolving around the issue that there was a HillPDA report prepared by the council for the purpose of submission to the department in relation to the economic impact of the Orange Grove proposal. We obviously became aware of that and we sought to point out to DIPNR our views on those issues. If you read the letter in detail at your convenience, you will find that there were a number of issues in that that suggested that DIPNR had asked a number of questions to which we sought to put our view in relation to those questions. They ranged from the degree to which the SEPP 66 and its objectives can be satisfied. They seem to ask the question about the proposed level of accessibility to the catchment of the development by public transport, walking and cycling, the likely effect on trip patterns, travel and car, the likely impact on the economic performance and viability of existing centres, the amount of use of public transport infrastructure and facilities and centres and the direct and indirect cost of the proposal to the public sector, the practicality of alternative locations which better achieve the outcomes of SEPP 66 policy.

**The Hon. JOHN RYAN:** That is all in the document.

**Mr MILES:** They were all questions that DIPNR appeared to be asking of the consultant, and Westfield, still concerned that the matter was being considered and concerned at the outcome, sought to put forward our view on these issues. I think as part of that letter we also provided an Urbost JHD report, which was an economic consultants report we commissioned to look at the economic impacts of the Liverpool CBD, and we enclose that. That report identified that there would be a significant impact on the Liverpool CBD and apparel sales in the order of \$14 million to \$18 million and 10 to 13 per cent, and we sought to represent to DIPNR our view that they were these significant impacts to be felt by the whole Liverpool CBD.

**The Hon. JOHN RYAN:** I went through asking you that question in that how were you aware that the department was relatively advanced in its preparation of the proposed section 69 report to the Minister?

**Mr MILES:** I think that came out through the court proceedings, the various court proceedings where consideration was given to the issue of extending the period of time for closure through various documents tendered to the court. I think I am right in saying that there was a letter provided by DIPNR that suggested that they were well advanced in preparing the 69 report.

**The Hon. JOHN RYAN:** Is it fair to suggest that all of that additional material which you sought to put before the Minister did not become public available and was not available, for example, for Gazcorp to comment on or make comment about?

**Mr MILES:** I am not aware of that.

**The Hon. JOHN RYAN:** It would be fair to say that it was pretty extensive documentation supplied in April when the matter was under active consideration and that the opportunity for further comment probably would have been appropriate?

**Mr MILES:** I am not aware of whether it was provided or not. During the whole proceedings where we made extensive submissions to DIPNR in relation to this and the Cross Roads development presumably through the process of FOI the other side had availed themselves of the submissions that we made to DIPNR.

**The Hon. JOHN RYAN:** Can I clarify some requests that I have got for some documentation myself from Westfield arising from this. First of all, a list of Westfield outlets within New South Wales. Could you supply to the Committee a copy of the correspondence we referred to earlier?

**The Hon. PETER PRIMROSE:** Madam Chair, is this a new request?

**The Hon. JOHN RYAN:** No, it is not.

**CHAIR:** No.

**The Hon. PETER PRIMROSE:** Are these things that he has already asked for?

**The Hon. JOHN RYAN:** Correspondence from AMP to Justin Lynch dated 19 February 2003 and the briefing.

**The Hon. JAN BURNSWOODS:** We have not asked for that.

**The Hon. JOHN RYAN:** We did. We discussed it earlier.

**The Hon. PETER PRIMROSE:** Could we have a deliberative meeting to discuss whether the Committee wants these provided?

**CHAIR:** These were items that were noted on the record.

**The Hon. JAN BURNSWOODS:** We do not go over that during hearings.

**CHAIR:** He is being helpful to the witness in reminding him of them.

**The Hon. JAN BURNSWOODS:** The staff of the Committee provide the relevant detail from the transcript to the witnesses after the hearing finishes.

**The Hon. JOHN RYAN:** I think Mr Miles has indicated that he was willing to provide it and we discussed it.

**The Hon. JAN BURNSWOODS:** I suggest that we do things in the proper way, Madam Chair.

**The Hon. JOHN RYAN:** This is the proper way.

**The Hon. PETER PRIMROSE:** It is not the proper way. It is your interpretation.

**The Hon. JOHN RYAN:** Are you able to provide the Committee with a copy of the correspondence between David Ruddock and Justin Lynch dated August 2003 regarding Rebel Sport?

**The Hon. JAN BURNSWOODS:** Our Acting Chair continues on his merry way, totally regardless of any rules or the advice of the clerk, the view of the Chair or the procedures of the Committee.

**CHAIR:** As usual, those requests will be on the transcript but Mr Ryan is simply highlighting what he has asked for in the proceedings today.

**Ms SYLVIA HALE:** Mr Ryan, in the course of your statement and in the evidence you gave to the Committee you suggested that you were very concerned that Mr Gazal was treating the work force at Orange Grove in an inappropriate manner. You made some comments saying that he was more or less deceiving the—

**Mr RYAN:** The tenants?

**Ms SYLVIA HALE:** Yes.

**Mr RYAN:** The tenants and the workers, yes.

**Ms SYLVIA HALE:** And the workers, right.

**Mr RYAN:** This is in the context of not advising them of the uncertainty surrounding it, yes.

**Ms SYLVIA HALE:** Yes. So you do have a genuine concern for the livelihoods and outcome of the people employed at Orange Grove?

**Mr RYAN:** For those people who were unaware of the uncertainty, I think anybody would have sympathy with their position, if they were people who were not experienced or sophisticated retailers, who do not understand the issues of disclosure statements and these sorts of issues. It might be a different story if it was a major chain store, who have lawyers and advisers who can help them on these things, but certainly for those who have found themselves in a position where they were not told and they entered into this thing in good faith without realising the uncertainty, then yes, I have sympathy with them.

**Ms SYLVIA HALE:** As a member of the Labor Party, a former Labor staffer, you would feel that it is appropriate to treat the work force as well as you can?

**Mr RYAN:** I would, and I should say that Westfield has tried to keep an open mind and has put some thought to what role it could play in helping out either the tenants and/or the workers there. To this stage we have provided, I think, some information to whoever—I am not close to it—but whoever in the Government is working on this. I know that people have provided information to them about what jobs might be available in what areas, and so forth. But, we have had an open mind and tried to be creative about what outcomes could be produced in good faith and in the proper way to help these people.

**Ms SYLVIA HALE:** I note your concern, but is it not true that you were the object of an international campaign conducted by unions both in Australia and overseas claiming justice for janitors and your office was besieged by emails suggesting that, in fact, Westfield's treatment of its own employees was so deplorable that there was a united international effort and it was directed at you, as a former Labor staffer, that you were in fact turning your back on what were considered to be fundamental Labor principles?

**The Hon. KAYEE GRIFFIN:** Ms Hale would be well qualified to say this considering how she treated her own staff.

**The Hon. PETER PRIMROSE:** Yes, the AMWU picketed outside the Hon. Sylvia Hale's factory because of the way they treated their workers.

**The Hon. KAYEE GRIFFIN:** What about the centres policy that the Greens have?

**Mr RYAN:** I would need to refresh my memory. I can remember receiving about 10 or 15 emails in this international barrage of emails.

**Ms SYLVIA HALE:** I suggest you look at the Workers On Line

**Mr RYAN:** No, seriously—

**Ms SYLVIA HALE:** —item titled "Dirty deals done dirt cheap".

**The Hon. JAN BURNSWOODS:** Let the witness answer the question.

**The Hon. KAYEE GRIFFIN:** People who live in glasshouses, Ms Hale.

**Mr RYAN:** No, seriously, there was a campaign mounted. I think it arose in the United States. Our executives in the United States met with the relevant union there. I arranged here in Australia to meet with the relevant union officials and we had two or three meetings—I was involved in two or three meetings to try and understand what the issues were and I set in train a process within Westfield for our management team to work with the union to overcome their problems. The issue was not so much with Westfield, as it was explained to us, but with cleaning contractors. We were able to explain that Westfield operates at the maximum end of meeting award standards and all the other requirements.

It was put to us that some of our contractors might not be operating there. We believed that they would and should be because our contracts with the cleaners required them to do that and we asked the union that if they had any evidence where that was not happening, to please bring it to us so that we could take swift action and either deal with the contractor, remove the contractor or require that contractor to come up to standards. So we entered into a very positive process. I would need to be updated where it got to, but we were certainly prepared to sit down and talk to the unions about that and overcome what they raised with us, here and in America. I understand it was resolved in the States as well.

**The Hon. JOHN RYAN:** With the leave of the member, could I just ask a question arising from material you gave a little earlier. You mentioned that Westfield assisted the Government and Drake.

**Mr RYAN:** I had a call from a fellow at Drake; it may be two calls or three, I cannot remember his name, that he had heard through the Shopping Centre Council—we provided some material to the Shopping Centre Council how many jobs might there be in Westfield and were we aware of any other shopping centre operators that might have jobs for retail staff. We provided a list. Our manager went around our store and asked our retailers were there any jobs. He got a list of that. I forwarded it to the Government and it somehow did not get to Drake and Drake came directly to us. I think I had one or two conversations with this guy and then I put him on to our manager or our management team to deal with.

**The Hon. JOHN RYAN:** Would it be fair to say that all of those jobs were an opportunity to attend an interview and try for the job, which other people also might have a go at?

**Mr RYAN:** I do not know. I honestly do not know.

**The Hon. JOHN RYAN:** They were not guaranteed jobs, that people would walk from one to another?

**Mr RYAN:** No, we did not guarantee. What we guaranteed was to use our best endeavours and support and be positive and proactive in trying to find jobs, but, no, we could not force our retailers to take on staff. But we offered to facilitate and help where we could.

**The Hon. PETER PRIMROSE:** It was simple conscription.

**CHAIR:** I would like to thank you for being here today and assisting us with our further inquiries.

**(The witnesses withdrew)**

**(Short adjournment)**

**(Evidence continued in camera)**

**REPORT OF PROCEEDINGS IN CAMERA BEFORE**

**GENERAL PURPOSE STANDING COMMITTEE NO. 4**

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

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**At Sydney on Friday 10 September 2004**

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**The Committee met in camera at 12.15 p.m.**

**[Published by resolution of the Committee 10 September 2004]**

**Uncorrected**

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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. E. Oldfield

The Hon. P. T. Primrose

The Hon. J. F. Ryan

**CHRISTOPHER CUTCLIFFE WESTON**, Consultant Planner, PO Box 142, The Oaks, 2570, New South Wales, sworn and examined:

**CHAIR:** Order! We will commence these proceedings for the time being in camera. Mr Weston, thank you for being here today. The capacity in which you are appearing here today presumably is as the former planning manager of Liverpool City Council, as requested by the Committee?

**Mr WESTON:** That is correct.

**CHAIR:** Mr Weston, you have been sent the usual communication from the Committee secretariat in relation to the preliminary procedures today, including the advice that you may request either before or during the hearing that all or part of your evidence be heard in private. The Committee would usually agree to such a request. The purpose of these in-camera proceedings at the moment is to hear from Mr Weston as to why he believes the evidence he is to give today should be heard in camera. Mr Weston, I invite you to address the Committee.

**Mr WESTON:** Thank you, Madam Chair. I have no objection to what I have said being printed, recorded and published in *Hansard*. I just do not want to be photographed giving evidence. I particularly just want to give my evidence to the Committee but I do not want other people to hear what I have to say. They can read it in *Hansard* if they so desire. I am here to assist the Committee—that is why I am here today—but I do not want to be filmed for my own privacy and for my own business reasons. I do not want to be filmed. I do not want to be associated with the project anyway, but I am here to help you. I do not want to be filmed as part of this hearing by the Committee. Thank you.

**CHAIR:** So it is really your concern about media exposure?

**Mr WESTON:** Yes. I do not want to be on Quentin Dempster on Friday night like the other people have been photographed. I do not believe that I need to be a part of that. I do not need to be questioned by members of the public as to what I was doing there. As I said, I am quite happy to give you the evidence and information that you have asked me to give today and to answer those questions truthfully, but I do not see any benefit in my face being put on television, if it happened to be, or anywhere else.

**CHAIR:** Okay. Does anyone wish to question the witness?

**Mr WESTON:** Sorry, Madam Chair. Others may not have asked for that and that is their prerogative. I was offered that opportunity in the letter and I would like to take that opportunity.

**CHAIR:** Mr Weston, thank you for that. If you have no further matters that you want to put before us on that particular matter you might leave the room and we will consider your request. The clerks will then come and tell you the outcome of our discussion.

**(Short adjournment)**

**CHAIR:** Mr Weston, we have gone through all the preliminaries, and we have agreed to hear your evidence in camera. But I presume you now understand that we will be making it public after.

**Mr WESTON:** Yes, Madam Chair. Thank you and the Committee for that.

**CHAIR:** Do you have an opening statement?

**Mr WESTON:** No.

**The Hon. KAYEE GRIFFIN:** Mr Weston, could you detail when you worked at Liverpool council?

**Mr WESTON:** I commenced in November 1998 and, as a result of a restructure in the department, I took a redundancy on 31 January 2003.

**The Hon. KAYEE GRIFFIN:** What was your position?

**Mr WESTON:** It was Manager of Planning—of all planners.

**The Hon. KAYEE GRIFFIN:** That is what you were from the time you started at Liverpool council?

**Mr WESTON:** Four years in that position. That is correct.

**The Hon. KAYEE GRIFFIN:** Council's DA form indicates that a pre development application meeting was held with regard to the Orange Grove proposal. In evidence, the applicant has indicated that a DA had been lodged with council since February 2002. However, the information from council shows that the DA was not formally lodged until June. Are you aware of any pre-DA meeting taking place with the applicants?

**Mr WESTON:** No, I am not.

**The Hon. KAYEE GRIFFIN:** Was it standard practice at Liverpool for pre-DA meetings to occur?

**Mr WESTON:** If the applicant requested it.

**The Hon. KAYEE GRIFFIN:** So before the development application was lodged with council there would only be a pre-DA meeting, or pre-lodgment meeting, if an applicant requested that?

**Mr WESTON:** If the applicant wished it.

**The Hon. KAYEE GRIFFIN:** Under what circumstances would that normally happen? Why would the applicant request a pre-lodgment meeting?

**Mr WESTON:** To get some degree of a surety from council staff that the application is going in the right direction as far as planning policy, engineering policy and building department issues. So there would be other people at that pre-lodgment meeting.

**The Hon. KAYEE GRIFFIN:** In terms of your involvement in your position with council, did you have to attend any of these pre-lodgment meetings, or was that something done by the planner whose responsibility it would be to assess the development proposal?

**Mr WESTON:** No. There was a regular Wednesday afternoon set aside for pre-lodgment meetings, or they could be done separately at another time as arranged by the council planner, who may have been approached by an applicant to have the meeting, and then other staff would be called to that meeting. So you would have other people present at that meeting.

**The Hon. KAYEE GRIFFIN:** Would there be a file note in relation to these pre-lodgment meetings on the file or not?

**Mr WESTON:** In my position, I actually brought that pre-lodgment process to Liverpool, and there were minutes taken, there were notes taken, and there was a copy of it given to the applicant, signed by the applicant and signed by the staff who were there at that meeting. So they went away with a record of the meeting.

**The Hon. KAYEE GRIFFIN:** But a pre-lodgment meeting would not constitute a formal lodgment of a DA?

**Mr WESTON:** No. You may need to see them again.

**The Hon. KAYEE GRIFFIN:** As has sort of been discussed a lot of times in local government, the clock would not have started ticking at that point of time, until formal lodgment of a development application?

**Mr WESTON:** That is correct.

**The Hon. KAYEE GRIFFIN:** You said that you introduced this process at Liverpool. Is that correct?

**Mr WESTON:** That is correct.

**The Hon. KAYEE GRIFFIN:** Where did you work previously?

**Mr WESTON:** At Fairfield council, as Manager of Planning at Fairfield.

**The Hon. KAYEE GRIFFIN:** How long were you at Fairfield?

**Mr WESTON:** Fifteen years.

**The Hon. KAYEE GRIFFIN:** How long have you been in local government?

**Mr WESTON:** Thirty-four years.

**The Hon. KAYEE GRIFFIN:** So that was the process that happened at Fairfield council?

**Mr WESTON:** And I brought that across.

**The Hon. KAYEE GRIFFIN:** When did you become aware of this proposal?

**Mr WESTON:** On 6 June 2002.

**The Hon. KAYEE GRIFFIN:** Could you explain, for the benefit of the Committee: When a DA is formally lodged—and the date this one was lodged was 6 June—how would you become involved in it the day it was lodged? Would you just explain the process, please?

**Mr WESTON:** I would not be involved with it on the day it was lodged. I would never be involved with it on the day it was lodged.

**The Hon. KAYEE GRIFFIN:** But, according to council records, the lodgment date of this one is 6 June.

**Mr WESTON:** I believe so, yes.

**The Hon. KAYEE GRIFFIN:** So how did you become aware of it?

**Mr WESTON:** I was asked, either by email or by Gerard Turrisi, to give an explanation to my understanding and planning expertise on that particular proposal.

**The Hon. KAYEE GRIFFIN:** Because this proposal was not exactly an extension to a house or something like that, would it be normal process, in your position, that you would be asked your opinion on large developments, or would it be on a range of developments?

**Mr WESTON:** It would be on a range of developments, and I would never be asked on the first day that it came in to give an opinion on an application.

**The Hon. KAYEE GRIFFIN:** You would never be asked?

**Mr WESTON:** I have never been asked to give an opinion on the day an application came in.

**The Hon. KAYEE GRIFFIN:** So, because it was lodged on the 6<sup>th</sup>, and you were asked for your opinion on the 6<sup>th</sup>, did you have access to all the information that had been lodged that day?

**Mr WESTON:** I did.

**The Hon. KAYEE GRIFFIN:** Was the senior planner whose responsibility it was going to be to assess the application, Mr Hunt, involved in any discussions on that day with you or Mr Turrisi?

**Mr WESTON:** Not that I can recall.



**The Hon. KAYEE GRIFFIN:** So, if it was only lodged on that day, and then you had access to the application, can you recall, for instance, around what time of the day you may have had these discussions with Mr Turrisi or actually have seen the DA?

**Mr WESTON:** Well, considering it came in on the 6th—sorry, it was registered on the 6th, came to council on the 6th—I didn't type the letter, I actually drafted up a draft to get typed up. That doesn't happen necessarily in an hour or so, so it could have been a couple of hours before I got my draft back to read. So it would have been in the course of the day that I wrote the memo.

**The Hon. KAYEE GRIFFIN:** When you looked at this on the day did you just give it a cursory look? Given that it was lodged on the 6th and you were asked to give some opinion on the 6th, did you just have a cursory look at the proposal and the plans?

**Mr WESTON:** I gave it, I think, a very detailed response in the two-page memo that I sent to Gerard Turrisi.

**The Hon. KAYEE GRIFFIN:** Right, and that all happened on 6 June?

**Mr WESTON:** That's the date that I've dated it.

**The Hon. KAYEE GRIFFIN:** After that did you have any other involvement with the DA?

**Mr WESTON:** We had a system in council where, on a regularly monthly basis, older style applications within the system would come to me in a print-out for the planners. There's about eight planners. And I would spend basically a day with all of the planners going through an hour, an hour and a half basis going through their applications and seeing how they were travelling, whether they were having delays in other departments, back from other governmental departments outside council. So I had an understanding of where applications were up to. But that didn't trigger until the application had been in for at least two or three months.

**The Hon. KAYEE GRIFFIN:** Right. Did you, for instance, in your position at Liverpool, did you have regular contact with all the planners, either the senior planners or the planners whose responsibility it was to deal with DAs such as this or however Liverpool worked? I think there was an area that was allocated to each planner or something, wasn't there?

**Mr WESTON:** There were three areas and I had open-door conferencing with those staff every day on matters that they would want to raise with me.

**The Hon. KAYEE GRIFFIN:** Do you recall having discussions with Mr Hunt when he was assessing this development application?

**Mr WESTON:** I can only go on what I remember. There were times when I would have spoken to Geoffrey about it, yes.

**The Hon. KAYEE GRIFFIN:** Right. Would it have been, to your recollection would it have been in relation to what was being proposed and what the zoning of the particular land was under the LEP?

**Mr WESTON:** It would have been on the basis of the concerns I expressed in the memo on 6 June that Geoffrey Hunt would have been aware of were my concerns to that application.

**The Hon. KAYEE GRIFFIN:** And just one other question before I hand over to my colleagues, there's been some discussion, or some evidence given at the Committee about how the advertising process worked at council in relation to either advertising the development application or once approvals had been given under delegation about how long particularly this particular application took before it was in the public arena that it had been approved. Was that the standard process with all delegated proposals or even proposals that nothing went to council, it just came out, it was just advertised as approved about five months after the approval was given?

**Mr WESTON:** There's a lot in that question.

**The Hon. JOHN RYAN:** Yeah.

**The Hon. KAYEE GRIFFIN:** Sorry.

**Mr WESTON:** And if you can break it up into sections I would be quite happy to answer the Committee. You've gone through about three different stages there—

**The Hon. KAYEE GRIFFIN:** Sorry.

**Mr WESTON:** —and I forget the end stage.

**The Hon. KAYEE GRIFFIN:** That's fine. When DAs were advertised was there—was that standard just to advertise them, for instance, this one was just advertised as, I can't recall quite the reading, but it was about that big in the local paper. Was that standard for every development application the way it was advertised?

**Mr WESTON:** It was.

**The Hon. KAYEE GRIFFIN:** So there was no deviation in that process?

**Mr WESTON:** No.

**The Hon. KAYEE GRIFFIN:** Previous evidence has said that the advertising was done administratively, but the administration was within your division. Did planners have any involvement in the advertising process at all, apart from perhaps passing some information to whoever actually put the ads in the paper?

**Mr WESTON:** Exactly that. That planner or from the allocation meeting it would be given to an administrative officer to prepare that add or a notification, or both. If it was advertised it was obviously going to be notified. But if an application was just to notify the neighbours then there was no advertising in the paper. A specific officer would do that.

**The Hon. KAYEE GRIFFIN:** Were you aware when this development application was advertised? Did you question the delay in the advertising process?

**Mr WESTON:** I expressed the view in my memo of 6 June that it was to be, that it should be advertised.

**The Hon. KAYEE GRIFFIN:** Thank you.

**The Hon. JAN BURNSWOODS:** Mr Weston, have you—you've mentioned the memo that you wrote on 6 June. Have you got that with you?

**Mr WESTON:** I have.

**The Hon. JAN BURNSWOODS:** Okay. Fine. I don't have to give you a copy. The memo that you wrote to Mr Turrisi suggests that the DA be assessed as a bulky goods salesroom showroom, as this is a complying use in the 4B zone. Is that right?

**Mr WESTON:** That's correct.

**The Hon. JAN BURNSWOODS:** Now, the table clearly shows that shops are a prohibited use?

**Mr WESTON:** That's correct.

**The Hon. JAN BURNSWOODS:** So—perhaps we'll come back to that. You begin that memo by describing the proposal as, and I am quoting and you've got it there, "The application is a change of use from a vacant/under construction facility to a warehouse clearance outlet." So the word "from" in that description refers to the existing use of the site, is that right?

**Mr WESTON:** That's correct.

**The Hon. JAN BURNSWOODS:** Okay. That description "vacant/under construction" is quite different from what is actually included on the application form and all subsequent council correspondence where everything else, every single other thing refers to the existing use as a bulky goods warehousing. I am wondering if you could explain to the Committee why, given that in your memo written the same day that the application was lodged, as you've said to Ms Griffin, in your memo to Mr Turrisi you describe the existing use as vacant/under construction facility?

**Mr WESTON:** It was vacant. It was a vacant building. If we go back, that was originally a very old building, which was gutted out, resheeted, revamped internally. So it was a vacant warehouse building originally and it was basically refurbished. And there was a DA issued, and I haven't got the date, prior to this as a bulky goods warehouse, which was approved.

**The Hon. JAN BURNSWOODS:** But if the DA itself describes the proposed work as a change of use from existing bulky goods/purchasing to a proposed use of warehouse clearance outlets why, in your memo, would you have described it differently from what the applicants described it?

**Mr WESTON:** Because it was never occupied. It was never occupied as a bulky goods warehouse.

**The Hon. JAN BURNSWOODS:** Right.

**Mr WESTON:** It was an empty shell, recladded, reroofed, take the fibro off it, dress it up, put toilets through it, put car parking around it. They got approval for that prior to this application. That's why it was vacant.

**The Hon. JAN BURNSWOODS:** So why would the applicants have described it differently?

**Mr WESTON:** I can't talk for the applicant.

**The Hon. JAN BURNSWOODS:** So you're saying that you thought the applicants' description was incorrect and you, therefore, inserted a correct one?

**Mr WESTON:** I put my definition on what I believed was on the site.

**The Hon. JAN BURNSWOODS:** Mmm. Did you have any discussions with anyone about the terms used in this memo, like with Mr Mosca for instance?

**Mr WESTON:** I never spoke to Frank Mosca about this application.

**The Hon. JAN BURNSWOODS:** Did you speak to anyone else about it?

**Mr WESTON:** Obviously, Gerard Turrisi must have asked me at some stage on the day.

**The Hon. JAN BURNSWOODS:** I meant the applicants, I suppose, Mr Gazal—

**Mr WESTON:** No.

**The Hon. JAN BURNSWOODS:** —Mr Mosca—

**Mr WESTON:** No.

**The Hon. JAN BURNSWOODS:** —or anyone else.

**Mr WESTON:** No. Definitely. Never discussed with Frank Mosca or the applicant or the owner.

**The Hon. JAN BURNSWOODS:** It still seems that the crucial point, I guess, about the description, which I am sure you will understand, is that the description given by Mr Mosca in lodging the application—

**Mr WESTON:** Can you tell me what he described it as? I haven't got it in front of me, so—

**The Hon. JAN BURNSWOODS:** I'll give you one. Would you like to pass that along, please?

**The Hon. JOHN RYAN:** Sorry, I missed it. What's the document that the witness—?

**The Hon. JAN BURNSWOODS:** It's the DA. You see the part highlighted in think there?

**Mr WESTON:** Yes.

**The Hon. JAN BURNSWOODS:** And, of course, Mr Mosca's name appears under that. He's the person who lodged it. You know, I guess the issue that has come up again and again in this inquiry is that, for instance, if we look at Mr Hunt's memo on 13 June it makes it quite clear that Mr Hunt was aware that the suggested use was contrary to the zoning. It seems these different descriptions of it seemed to suggest that someone somewhere was conscious that describing this proposal in certain ways made it clear, pretty much from day one, that the proposal could never lawfully be approved by Liverpool council.

**Mr WESTON:** Well, that is the case. My memo reads to that effect. My memo is saying that.

**The Hon. JAN BURNSWOODS:** Where does your memo say that?

**Mr WESTON:** It expresses the point that to carry out this development must be as a bulky goods showroom within a 4B zoning.

**The Hon. JAN BURNSWOODS:** Mmm.

**Mr WESTON:** It goes on to say, "gross floor area of the part of the building used for the sale, storage and display of the following items" and that is an extract—part of—out of the planning scheme.

**The Hon. JAN BURNSWOODS:** Mmm.

**Mr WESTON:** Which is not all embracing—there are other uses that could have been in that list.

**The Hon. JAN BURNSWOODS:** So you are confirming, therefore, that you knew from the time it was lodged that a factory outlets centre would not be a permissible use?

**Mr WESTON:** I had previous experience with Clint's warehouse.

**The Hon. JAN BURNSWOODS:** With?

**Mr WESTON:** Clint's warehouse—a similar type and style of warehouse. Quite extensive interviews with even Fairfield council as to how the Warwick Farm Clint's was going to operate and how it was operating in Fairfield. Staff were involved with me on that. Questions were asked by staff as to how Clint's was to be handled and managed. And eventually Clint's did receive a very detailed and explicit consent as to how they could operate at Warwick Farm. I had knowledge of bulky goods outlets and whether they did or didn't comply with Liverpool planning scheme.

**The Hon. JAN BURNSWOODS:** You have said again "bulky goods". My question was—I thought I was confirming in different words—what you yourself said: That you are saying in this memo of 6 June 2002 that a factory outlets centre would not conform with the zoning. It would not be a lawful use of the site.

**Mr WESTON:** That's correct.

**The Hon. JAN BURNSWOODS:** So you knew that from the time it was lodged and that's how we should read your memo.

**Mr WESTON:** It's mostly why I wrote the detail that I did in the letter.

**The Hon. JAN BURNSWOODS:** Mmm.

**The Hon. JOHN RYAN:** Sorry, Madam Acting Chair, the witness when he was asked that question nodded his head—I think in the affirmative—and Hansard probably won't; could you answer that question verbally so that we can get it on *Hansard*?

**Mr WESTON:** I wrote the report, or the memo, to clarify my views on the application.

**The Hon. JAN BURNSWOODS:** I think Mr Ryan has correctly pointed out that you nodded your head, meaning yes, when I said, well, you knew and you're using your memo to explain that a factory outlets centre was an incorrect use.

**Mr WESTON:** That's correct.

**The Hon. JAN BURNSWOODS:** Can I just take you to a couple of points about the second page of this memo, where you refer to the need for it to be advertised for 14 years, as was the case with Clint's at Warwick Farm, which you've just been telling us about?

**Mr WESTON:** Yes.

**The Hon. JAN BURNSWOODS:** Ms Griffin may want to come back to that. We have heard a lot of evidence from Mr Hunt and others that, in fact, for reasons we have never clearly established the advertising didn't occur until November, and the DA was actually granted the day after the advertising ceased. Can you throw any light on why, when both you and Mr Hunt were saying in June that it needed to be advertised in the normal way, that advertising didn't actually take place until November?

**Mr WESTON:** I don't know why it didn't. On the 30th of October 2002 I signed an email, which is a standard memo, listing those sites which the Hon. Kayee Griffin mentioned as far as the small print—those four applications, whatever they were; one being this particular site. I, as manager, would sign a memo which would go to the mayor and all the councillors.

**The Hon. JAN BURNSWOODS:** But is it strange to you that a period from June to November went past before it was advertised?

**Mr WESTON:** Very unusual.

**The Hon. JAN BURNSWOODS:** Can you throw any light on why that happened?

**Mr WESTON:** It could have just fallen off the track.

**The Hon. JAN BURNSWOODS:** So you have no reason to suggest it may have been deliberate.

**Mr WESTON:** I don't know.

**The Hon. PETER PRIMROSE:** Can I—

**ACTING CHAIR (Ms Sylvia Hale):** Mr Primrose, I think the Government's time has expired. Mr Oldfield or Mr Ryan, do you have any questions?

**The Hon. JOHN RYAN:** I have no objection to the Government continuing their questions. I think their area of questioning is important. I would simply ask that they extend the same courtesy to me to ask questions subsequently.

**The Hon. DAVID OLDFIELD:** I just have one question of clarification and then I am happy to go to the Government.

**ACTING CHAIR:** Yes. Mr Oldfield.

**The Hon. DAVID OLDFIELD:** I'm sorry, Mr Weston, I missed what you were saying a moment ago with regard to whether the council was aware that the use was not legal in the first instance. Can you just go back through that again? It was in relation to a question that Jan Burnswoods asked you a moment ago.

**Mr WESTON:** You mean council as a whole? Council? Councillors?

**The Hon. DAVID OLDFIELD:** Planning.

**ACTING CHAIR:** Council officers.

**The Hon. DAVID OLDFIELD:** Council officers.

**Mr WESTON:** I wrote the memo on the 6th of June, which explained my views of the application.

**The Hon. DAVID OLDFIELD:** So how is it that you think it progressed? Were your views just not taken into consideration?

**Mr WESTON:** Well, that would appear—I believe Geoffrey Hunt wrote a letter on about the 13th of June, which covered every square that you could cover as far as requiring information from the applicant and I was quite happy with that letter. It was a very detailed, succinct letter.

**The Hon. DAVID OLDFIELD:** Okay.

**ACTING CHAIR:** So any misgivings you might have had about the application were subsequently set to rest.

**Mr WESTON:** Well, the letter that was sent on the 13th of June was extremely detailed.

**The Hon. JAN BURNSWOODS:** That's the one from Mr Hunt.

**Mr WESTON:** That's correct.

**The Hon. JAN BURNSWOODS:** To Mr Turrisi—no, to Mr Mosca.

**Mr WESTON:** As the applicant.

**The Hon. JAN BURNSWOODS:** Madam Acting Chair, I was going to say that I essentially have got one question left, which is finishing going through the memo. It might be sensible if I do that.

**ACTING CHAIR:** Yes, please proceed.

**The Hon. JAN BURNSWOODS:** The other thing that I find puzzling in your memo which I would be grateful if you could throw light on for us, Mr Weston, is if you go to the second last paragraph where, starting the paragraph, you have this sentence, "Determination will not be issued in two weeks." It's an odd sentence. It seems to suggest that someone expected or asked for it to be determined in two weeks. Can you throw light on the reason why you would have used that wording?

**Mr WESTON:** I would have answered what I was asked.

**The Hon. JAN BURNSWOODS:** Asked by whom?

**Mr WESTON:** Gerry Turrisi.

**The Hon. JAN BURNSWOODS:** So why would he ask that? It would surely not be normal for a DA of this size to be determined in two weeks.

**Mr WESTON:** That would be a correct assumption.

**The Hon. JAN BURNSWOODS:** So you are saying that you remember or you are assuming that Mr Turrisi, in effect, said to you, "Can we get this approved in two weeks?"

**Mr WESTON:** I wrote the memo. I wrote on the memo what my planning advice was. I explained what the advertising process was. I would only assume—I don't write things unless I am asked—I would have been asked for a determination and was asked could I have it determined in two weeks—not me personally but have the process determined in two weeks.

**The Hon. JAN BURNSWOODS:** When you say you are assuming that is it because you do not remember Mr Turrisi specifically asking you to do that?

**Mr WESTON:** I don't assume it; I would have written what I was asked.

**The Hon. JAN BURNSWOODS:** Okay. So Mr Turrisi—

**Mr WESTON:** If he had said four weeks I would have written four weeks.

**The Hon. JAN BURNSWOODS:** So we can be confident then that Mr Turrisi must have said to you something like, "Can the determination be issued within two weeks?"

**Mr WESTON:** And I replied, "Determination cannot be issued in two weeks."

**The Hon. JAN BURNSWOODS:** And you would agree that being asked to issue a determination on a development of this size within such a short period of two weeks would be unusual, to say the least?

**Mr WESTON:** Yes.

**The Hon. JAN BURNSWOODS:** Can you throw any light on why Mr Turrisi would have made that request of you?

**Mr WESTON:** I have no idea.

**The Hon. JAN BURNSWOODS:** And yet, for instance, when Ms Griffin asked you a question before I think you said something like you had an open-door policy, you would have talked to these people every day. Wouldn't you have sought some information or asked Mr Turrisi why he would have had this expectation?

**Mr WESTON:** No. He asked the question and I, as the manager, directed back to him, as the director, my answer.

**The Hon. JAN BURNSWOODS:** Doesn't it seem to you that there is a bit of a lack of communication of ordinary, "Hang on a minute, why are you asking that?" Wouldn't you expect that in the kind of workplace you were in charge of that there would have been a bit more toing-and-froing and questioning about something that you've said was, you know, very unusual?

**Mr WESTON:** It was an extremely dynamic and busy department, Liverpool, as far as applications were concerned. I was asked to give advice on the application. I was asked certain questions and I answered the questions that I was asked.

**The Hon. JAN BURNSWOODS:** Yes, we know that Liverpool was busy and dynamic. I could be corrected on the detail but I think there are actually only 13 of these centres in the whole of Australia. So it's not like an ordinary DA to put an extension on the back of a house or something, is it?

**Mr WESTON:** No, no.

**The Hon. JAN BURNSWOODS:** I would have thought that, given its size and its unusual nature—given how few of these centres exist—that there would have been a bit more conversation and dotting of the i's and crossing of the t's.

**Mr WESTON:** Well, I believe I did dot the i's and cross the t's in my memo and I didn't have discussions with Mr Turrisi after I wrote that memo about this application.

**The Hon. JAN BURNSWOODS:** So how do you explain the things that went wrong after that—the delay?

**Mr WESTON:** I can't speak for other officers. I can't speak for other officers.

**The Hon. JAN BURNSWOODS:** But as the manager of planning you weren't ultimately responsible?

**Mr WESTON:** Yes, I was. That's correct.

**The Hon. JAN BURNSWOODS:** Well, doesn't that mean that you should actually—that you have a responsibility to speak for other officers?

**Mr WESTON:** The application was allocated to Geoffrey Hunt. Geoffrey Hunt was a senior and never came back to me, as his supervising manager, to discuss the application.

**The Hon. JAN BURNSWOODS:** Mmm. So?

**Mr WESTON:** I wasn't involved with the application to the extent that it was being dealt with by Geoffrey Hunt and Gerry Turrisi.

**The Hon. JAN BURNSWOODS:** But as manager of planning?

**Mr WESTON:** I would have spoken to Geoffrey in the process but I wouldn't say to him, "Has it been advertised?" three months or four months down the track. I would have expected that my memo—as I expressed, that needed to be advertised.

**The Hon. JAN BURNSWOODS:** Mmm.

**Mr WESTON:** So.

**The Hon. JAN BURNSWOODS:** So did you ever talk later on, as the next five months wore on, about it to Mr Hunt?

**Mr WESTON:** Yes, I did.

**The Hon. JAN BURNSWOODS:** To Mr Turrisi?

**Mr WESTON:** No, I didn't.

**The Hon. JAN BURNSWOODS:** To Mr Paciullo?

**Mr WESTON:** No, I didn't.

**The Hon. JAN BURNSWOODS:** So what were your conversations with Mr Hunt about?

**Mr WESTON:** I would have asked Geoff how the application was progressing, as I would have with all the other applications all the other planners had as well. I was told at some stage that Geoffrey had been advised to engage Peter Leyshon Consulting to prepare an economic impact statement.

**The Hon. JAN BURNSWOODS:** Advised by whom?

**Mr WESTON:** Well, I can only presume it was Gerry Turrisi because I asked Geoffrey Hunt, "Who instructed you to do that?" and I asked him had he got the appropriate clearances to engage Peter Leyshon, which had happened.

**The Hon. JAN BURNSWOODS:** So advised—

**Mr WESTON:** By Gerard



**The Hon. JAN BURNSWOODS:** So the word shouldn't be "advised"; it should be "instructed".

**Mr WESTON:** Instructed, yeah.

**The Hon. JAN BURNSWOODS:** Mmm. Okay.

**Mr WESTON:** So he was instructed to engage Peter Leyshon to review the report.

**The Hon. JAN BURNSWOODS:** And then you had other conversations with Mr Hunt after that.

**Mr WESTON:** I recall having a discussion with Geoffrey in November—what date; but it would have been in the November period—and it was after the consent that I inquired with Geoff as to the progress of the DA.

**The Hon. JAN BURNSWOODS:** This was after the consent—

**Mr WESTON:** Was issued.

**The Hon. JAN BURNSWOODS:** Mmm. Did it strike you as unusual that the consent would be issued the day after the 14-day advertising finished?

**Mr WESTON:** Well, seeing as I hadn't seen the file I didn't realise the exhibition period—well, I would have; I didn't see the file so I didn't know the sequence of the day it was closing for advertising and the application being signed off the following day.

**The Hon. JAN BURNSWOODS:** If you look back at it now, in retrospect, would you say it's a bit odd to actually grant the application the day after the 14-day advertising period?

**Mr WESTON:** I can't remember any others that were signed off on the following day.

**The Hon. JAN BURNSWOODS:** So it does seem unusual.

**Mr WESTON:** It was different.

**The Hon. JAN BURNSWOODS:** Suspicious?

**Mr WESTON:** I can't answer that.

**The Hon. JAN BURNSWOODS:** Why? I mean, I'm asking your opinion.

**Mr WESTON:** It's unusual for an application to be signed off the day that it comes off exhibition—the day after.

**The Hon. JAN BURNSWOODS:** I mean, it would, for instance, be possible that there were objections in the mail.

**Mr WESTON:** There could have been letters in the front letterbox of the council. They could be down in records trying to allocate a file for them.

**The Hon. JAN BURNSWOODS:** So even in, I think your words were, a "busy and dynamic" planning department, nevertheless you would agree that this is a very unusual procedure.

**Mr WESTON:** To be issued the day after advertising closed is not the norm.

**The Hon. PETER PRIMROSE:** Mr Weston, when you were working at the council were you aware of negotiations between the council and developers to redevelop the council chambers as apartments and to build new council chambers?

**Mr WESTON:** I was aware that schemes as such as that were discussed, yes.

**The Hon. PETER PRIMROSE:** Can you tell the Committee what you know about those negotiations and council's consideration of those matters?

**Mr WESTON:** No, I cannot.

**The Hon. JOHN RYAN:** Sorry, is that because you know nothing or you cannot tell us?

**Mr WESTON:** It was discussed in managers meetings or you would read council minutes or you would be aware of what was happening from reports in the press, so you knew what was actually happening in the system as far as applications like that are concerned.

**The Hon. JOHN RYAN:** I just do not understand your answer. You said no, you cannot. Is that because you are unable or you do not know anything about it?

**Mr WESTON:** I think the Hon. Peter Primrose asked me whether I was aware—can I have the question back again?

**The Hon. PETER PRIMROSE:** Were you aware of negotiations and consideration of these matters by council?

**Mr WESTON:** As manager of planning I was aware that there were certain proposals related to the matter.

**The Hon. PETER PRIMROSE:** Who was promoting the idea?

**Mr WESTON:** Obviously interested external parties and senior management of council.

**The Hon. PETER PRIMROSE:** Interested external parties? Can you tell us who they were?

**Mr WESTON:** No, because I was not at any meetings with them.

**The Hon. PETER PRIMROSE:** How do you know? You said, "they". Do you know who they are?

**Mr WESTON:** Who the external parties would have been?

**The Hon. PETER PRIMROSE:** Yes.

**Mr WESTON:** It could have been representatives of the Bulldogs committee or executive. It could have been people working for Macquarie Bank.

**The Hon. PETER PRIMROSE:** Do you know, for instance, in terms of council, if the former mayor Mr Paciullo was promoting the idea of the construction of apartments and building new council chambers?

**Mr WESTON:** I do not know.

**The Hon. PETER PRIMROSE:** For instance, do you know where it was proposed to build the new council chambers?

**Mr WESTON:** Yes. If I recall, it might have been at the southern end of Macquarie Street.

**The Hon. JOHN RYAN:** I do not wish to be difficult, but is this questioning not relating to the Oasis development and, if so, I do not understand its relationship to Orange Grove. I do not mean to be difficult.

**The Hon. PETER PRIMROSE:** I will ask the next question, which may clear it up. Can you tell me who owns the land at the proposed development site?

**Mr WESTON:** I have never checked council records so I could not give you an answer that I can say is correct. I do not know. If you tell me a name, I could say, yes, I have heard of it.

**The Hon. PETER PRIMROSE:** Nabil Gazal?

**Mr WESTON:** No.

**The Hon. PETER PRIMROSE:** No part of the land, in your view, was owned by Mr Gazal or his associates, Gazcorp?

**Mr WESTON:** At my level of manager, I was not involved or-party to or involved in any discussion or heard from others as to what was happening. It was not part of my professional advice to senior management, to councillors.

**The Hon. PETER PRIMROSE:** So you are not aware who owned that land?

**Mr WESTON:** I thought it was owned by another gentleman.

**The Hon. PETER PRIMROSE:** Who was that?

**Mr WESTON:** His name escapes me, honestly. He worked and had some projects in Liverpool.

**The Hon. JOHN RYAN:** Does Murray Douglas ring a bell to you?

**Mr WESTON:** Murray Douglas was council's appointed special projects consultant.

**The Hon. JOHN RYAN:** The recall him having anything to do with this proposal?

**Mr WESTON:** I have never sat in a meeting with that gentleman.

**The Hon. KAYEE GRIFFIN:** Obviously someone wanted an approval for this for a warehouse clearance outlet on site at Orange Grove. Did anyone stress the importance of the DA approval to you in relation to the Orange Grove project?

**Mr WESTON:** No.

**The Hon. KAYEE GRIFFIN:** So, you did not have any contact with Mr Gazal, Mr Mosca at all in relation to the Orange Grove DA?

**Mr WESTON:** No.

**The Hon. KAYEE GRIFFIN:** How many conversations did you have had with Mr Turrisi in relation to it, apart from the initial request your had on 6 June?

**Mr WESTON:** None.

**The Hon. KAYEE GRIFFIN:** So you had no other discussions with Mr Turrisi?

**Mr WESTON:** None whatsoever.

**The Hon. KAYEE GRIFFIN:** Any discussion with the councillors in relation to the project?

**Mr WESTON:** No.

**The Hon. KAYEE GRIFFIN:** You said on 30 October you would have signed a memo that went to the mayor and councillors that advise them of the development applications that were being advertised by council, is that correct?

**Mr WESTON:** That is correct.

**The Hon. KAYEE GRIFFIN:** And that was standard practice?

**Mr WESTON:** It is a standard letter, a standard practice, and carried out by the same person who does it today.

**The Hon. KAYEE GRIFFIN:** How often will the advertising occur in the paper?

**Mr WESTON:** Every week.

**The Hon. KAYEE GRIFFIN:** So, every week you sent a memo to the mayor and the councillors in relation to any DAs that were being advertised or exhibited?

**Mr WESTON:** The following week.

**The Hon. KAYEE GRIFFIN:** The following week, because there has been some evidence previously that the mayor and the councillors knew nothing about this application.

**Mr WESTON:** That memo should be on file. And it is a larger version of the little one that you referred to before that appeared in the paper.

**The Hon. KAYEE GRIFFIN:** Does it concern you that you received a request from the director on the day that the DA was formally lodged with council requesting that, presumably, it be fast tracked through council processes? Does that concern you, that Mr Turrisi asked you this?

**Mr WESTON:** To the extent that I wrote a two-page memo in answer to the question and was explicit in what my views and thoughts were on the application.

**The Hon. KAYEE GRIFFIN:** Had that ever occurred before with any other development application, the request for something to be fast tracked, particularly with a two-week turnaround, presumably?

**Mr WESTON:** No.

**The Hon. KAYEE GRIFFIN:** What was the average turnaround for developments at Liverpool, if you can remember, at the time you were there?

**Mr WESTON:** What scale of application are you talking about?

**The Hon. KAYEE GRIFFIN:** I suppose an average turnaround time?

**Mr WESTON:** Three to four months, average.

**The Hon. KAYEE GRIFFIN:** That would have been anything like building a house?

**Mr WESTON:** No.

**The Hon. KAYEE GRIFFIN:** What about a large development?

**Mr WESTON:** My planning profession only covered what they call class 2 to 9 buildings. A house is class 1, and class 10 was done by another manager. I was purely manager residential, industrial, commercial, factories. Everything that was not a house or shed or an extension went through our section.

**The Hon. KAYEE GRIFFIN:** Mr Hunt, as the senior planner, did he just deal with large developments or, in his capacity, having an area of council to look after, did he deal with all DAs?

**Mr WESTON:** He had the central area and he had a development planner working with them as well. Probably Geoffrey would have handled, as the other seniors would have done, the major applications, the more complex applications.

**The Hon. KAYEE GRIFFIN:** As a manager, I suppose sandwiched between planners, the senior planner and the director, did you have a concern about the fact that there did not seem to be a direct line of

communication through you for things like this Orange Grove development, say, from the senior planner to the director as opposed to what appears to be a lot of bypassing in the process, bypassing you in your position?

**Mr WESTON:** In hindsight, looking back now, it was. I was not in the loop. I was never approached again other than my discussion with Geoffrey Hunt on a couple of occasions through the process. I was Geoffrey's supervisor.

**The Hon. KAYEE GRIFFIN:** Was it also standard in terms of anything that was done, and there were several processes by which applications were dealt with—did you see, I suppose in your opinion, a development as big as the Orange Grove one should be dealt with by an individual planner and delegated authority?

**Mr WESTON:** The delegations as written go to any senior planner to process that application subject to there being no objections to determining the application.

**The Hon. KAYEE GRIFFIN:** In your opinion, do you think that is perhaps an issue, that something as big as this development would be dealt with, or the responsibility would just fall on one person? Do you have an opinion on whether that was appropriate or whether it should have been done another way?

**Mr WESTON:** As planners you speak to other people about applications. You get other advice.

**The Hon. JOHN RYAN:** I do not understand what that question means. That answer does not mean anything to me, Mr Weston. What do you mean as planners you get advice from other people? Should this person have got advice from other people on this matter?

**Mr WESTON:** I had a memo on file on 6 June. Geoffrey Hunt wrote a letter on 13 June fully detailing the application and what was required from the applicant. You would normally, at some stage, if you had any concerns or issues about a particular application you talk to your supervisor or another senior planner or in consultation, a roundtable, with those senior planners and a supervisor.

**The Hon. JOHN RYAN:** Are you suggesting that should have happened in this case and did not?

**Mr WESTON:** I believe it should have, yes. It may have, but I was not party to it.

**The Hon. JAN BURNSWOODS:** Going back to your memo of 6 June, in the heading itself you notice you referred to preliminary comments, warehouse clearance outlet, at 36 tenancies by four ancillary food outlets, and you make your views clear. From what you said earlier, it seems pretty clear that you did not believe that these 36 tenancies were valid within the zoning?

**Mr WESTON:** That is correct.

**The Hon. JAN BURNSWOODS:** Can I ask whether, given the emphasis in the DA, the form itself, on the fact that the applicant was seeking "warehouse clearance outlet", I think the one question we have not asked in terms of who you were speaking to except Mr Turrisi, were any prospective tenants contacting you or any other officers of council?

**Mr WESTON:** No.

**The Hon. JAN BURNSWOODS:** So, as far as you are aware, and I presume you can only speak for yourself, you were not contacted or had any dealings with the owner, Mr Gazal, or Mr Mosca, the architect, and you had no dealings with any prospective tenants?

**Mr WESTON:** None whatsoever.

**The Hon. JAN BURNSWOODS:** It has been suggested, and you may not be able to comment on this if conversations occurred with others, it has been suggested that part of the pressure being exerted came from a prospective major tenant who was pretty aware of the illegalities, as he explained them, but was desperate to get approval for a warehouse clearance outlet. Can you make any comment on that?

**Mr WESTON:** I cannot.

**Ms SYLVIA HALE:** Mr Weston, you said that under the delegations policy of council, if there had been no objections an officer was entitled to approve it?

**Mr WESTON:** If it was an appropriate use and there were no deviations or variations from policy.

**Ms SYLVIA HALE:** If it complied?

**Mr WESTON:** If it complied, yes.

**Ms SYLVIA HALE:** You know there are other instances where major developments were approved under delegated authority?

**Mr WESTON:** Yes.

**Ms SYLVIA HALE:** So it was not uncommon?

**Mr WESTON:** That is correct.

**Ms SYLVIA HALE:** But you were of the view that it did not comply?

**Mr WESTON:** That is correct.

**Ms SYLVIA HALE:** Mr McCully, the new general manager, was asked what his view of the approval process was, and I hope I am not verballing him, I think he said that on the basis of his experience as a planner at Hawkesbury he would not have considered that it complied with the zoning, however, he then talked to Mr Hunt who argued it was an innominate use—I do not know he was totally persuaded, but he could see Mr Hunt's point of view. Have you had a chance to go back and look subsequently at the reasons why approval was given and whether you think they were valid and appropriate?

**Mr WESTON:** Not to the detail that you have just asked me, no.

**Ms SYLVIA HALE:** So you would still have the same reservations about the project?

**Mr WESTON:** I have, yes.

**The Hon. JOHN RYAN:** I am confused about some of the answers you have given, to be perfectly truthful, and, although you are obviously being very careful with your words, I think there are some things we do need to sort out. First of all, can I just work out the structure? You were more senior than Mr Turrisi?

**Mr WESTON:** No.

**The Hon. JOHN RYAN:** Mr Turrisi is your supervisor?

**Mr WESTON:** The structure which, with respect, the Committee should have, the structure of the council planning department at that stage, had a director, (corporate manager)—being Gerry Turrisi—and four managers under his direction, which I was the planning manager.

**The Hon. JOHN RYAN:** So Mr Turrisi was senior to you?

**Mr WESTON:** Yes.

**The Hon. JOHN RYAN:** What you are saying is your memo was in response to some questions Mr Turrisi asked you?

**Mr WESTON:** That is what I understand. That is why I wrote that.

**The Hon. JOHN RYAN:** What were those questions?

**Mr WESTON:** I have not got a copy of them, but I have answered them in the memo. I have only answered what I have been asked. I must have been asked those questions. I was given the application and asked certain questions either by email or by verbally being requested.

**The Hon. JOHN RYAN:** If those questions were by email then there is a document which could be obtained which would indicate what those questions were?

**Mr WESTON:** Yes.

**The Hon. JOHN RYAN:** And you are telling the Committee that it was most unusual for your manager to ask you to comment on an application the day it was lodged?

**Mr WESTON:** Yes.

**The Hon. JOHN RYAN:** Did you think that that was improper?

**Mr WESTON:** I did not think at the time it was improper.

**The Hon. JOHN RYAN:** Did you think that Mr Turrisi showed an undue interest in having this application completed quickly?

**Mr WESTON:** It would appear that way.

**The Hon. JOHN RYAN:** No, not that it appeared that way, did you think at the time Mr Turrisi—

**Mr WESTON:** It was not going to be determined in two weeks.

**The Hon. JOHN RYAN:** You are not answering my question, Mr Weston. Did you, at the time, think that when you were asked to comment on this matter (a) so quickly and (b) with regard to whether it could be approved in two weeks, any sensible person in your position would have come to a conclusion as to whether or not you thought that your boss was asking you to do something that you thought was improper? Did you think that at the time?

**Mr WESTON:** It was unusual to be asked to provide a determination in two weeks.

**The Hon. JOHN RYAN:** So did you think not only that it was unusual, but did you think that it was sufficiently unusual as to be suspicious when you were asked to do this at the time?

**Mr WESTON:** Suspicious did not come into my mind when I wrote that email.

**The Hon. JOHN RYAN:** Did you ask your employer/supervisor why he wanted this done so quickly?

**Mr WESTON:** No.

**The Hon. JOHN RYAN:** So everything you are asked to do by a supervisor you just do without question, do you, even if you do have questions about it?

**Mr WESTON:** As I have explained, I do not know whether it came to me by an email or Gerard standing at my office door asking me to get him a response to this application. I provided a response to the questions I was asked.

**The Hon. JOHN RYAN:** Have you ever been questioned about this matter by subsequent managers of Liverpool City Council?

**Mr WESTON:** When?

**The Hon. JOHN RYAN:** You were aware that after this approval had been given there was a new general manager appointed. I think he has informed the Committee that he did conduct some inquiries into how this matter progressed and worked out as it did. Were you questioned during that investigation?

**Mr WESTON:** Recently I was questioned on it.

**The Hon. JOHN RYAN:** Who questioned you?

**Mr WESTON:** Gary McCully.

**The Hon. JOHN RYAN:** Did you suggest to him that you thought there was something improper about how this matter had been handled?

**Mr WESTON:** I did not use the word " improper".

**The Hon. JOHN RYAN:** What words did you use?

**Mr WESTON:** It was unusual. Well, (1) I was extremely happy to see that this memo was still on file, which indicated my concerns about the application, and I expressed, to my knowledge, that it was not going to be determined in two weeks.

**The Hon. JOHN RYAN:** You have told the Committee that you believe that this memo you have written clearly expresses that you thought this to be an illegal development. Can I put to you that I do not think that that memo says it quite as clearly as you have said to the Committee? I think that you could read that memo almost as a biblical passage and you could place what interpretation you wanted on it. Why did you not make it absolutely clear that you thought that the development as proposed by the applicant was not possible to be approved according to its zoning?

**Mr WESTON:** Day one I get the application and day one I give an answer on it. Now for me to give a totally full assessment on an application could take weeks. So I gave an overview of the application.

**The Hon. JOHN RYAN:** Can I say to you that one form of words you could have used is that "it is too early to tell but my first impression is that what the applicant is asking cannot be approved under that zoning"? That would have been a perfectly reasonable way to have written your memo. Why did you not choose to say something clearly, because, to be honest, unless there is something special about how planners write to each other, I would have almost thought that what you were saying in this memo would be that it was possible to approve this and that it should be advertised for a period of two weeks; your only reservation was that it could not be done in two weeks. Frankly, reading that the first time I read it, that is what I thought your memo meant, that you were not expressing any reservation at all. Yet you are telling the Committee that what you meant this memo to mean is that you flat-out, categorically believed that this could not have been approved. Did you ever express that view verbally in addition to what you have written?

**Mr WESTON:** I expressed it to Geoffrey, yes I did.

**The Hon. JOHN RYAN:** You told Geoffrey Hunt you thought that this could not be approved?

**Mr WESTON:** It is not an appropriate use; it could not be defined as bulky goods salesroom or showroom.

**The Hon. JOHN RYAN:** When did you say that to Geoffrey Hunt?

**Mr WESTON:** Sometime after 13 June.

**The Hon. JOHN RYAN:** And what were the circumstances under which you—

**Mr WESTON:** Passing him in the corridors probably or words were spoken about something or other.

**The Hon. JOHN RYAN:** Was he asking you about the meaning of your memo?

**Mr WESTON:** No, he never spoke to me about it.

**The Hon. JOHN RYAN:** Should he have spoken to you about it?



**Mr WESTON:** Yes, he should have, 100 per cent.

**The Hon. JOHN RYAN:** Do you think there was some reason as to why he did not speak to you?

**Mr WESTON:** He may have—well, not may have—he was taking Gerard as the director and Gerard was asking him particular questions about it or assisting him with the application.

**The Hon. JOHN RYAN:** Are you saying to the Committee that you think that one of the reasons this matter was progressed so quickly through the council was because Gerard Turrisi had a particular interest in speeding it through the council and, as a result, some of the steps that would normally be taken in assessing this were missed?

**Mr WESTON:** I do not think it went through the system terribly speedily. June, July, August, September, October, November: nearly five months. So it was not speedy.

**The Hon. JOHN RYAN:** Are you saying that steps were missed deliberately?

**Mr WESTON:** No.

**The Hon. JOHN RYAN:** Are you saying that Mr Turrisi might have advanced the cause of this in some fashion that caused assessments to be missed?

**Mr WESTON:** May have.

**The Hon. JOHN RYAN:** Are you saying that at a very early stage of the consideration of this development you gave unequivocal, unambiguous advice that the proposal, as lodged by the applicant, was illegal?

**Mr WESTON:** The use could not be approved in a 4B zoning for what was proposed.

**The Hon. JOHN RYAN:** And you gave that unambiguously very early in the assessment stage?

**Mr WESTON:** It would have been extremely early in the process.

**The Hon. JOHN RYAN:** And that at the very least you had expressed that to Mr Hunt?

**Mr WESTON:** And he wrote a letter on 13 June which expressed it in detail.

**The Hon. JOHN RYAN:** Are you aware of anything that occurred after that that dealt with the concerns that you expressed?

**Mr WESTON:** None whatsoever.

**The Hon. JOHN RYAN:** So how do you explain that the matter was ultimately approved?

**Mr WESTON:** Geoffrey instigated his delegations.

**The Hon. JOHN RYAN:** You are saying that you could not speak on behalf of certain officers. Which officers should we be asking who can speak on their own behalf? Who are the relevant people to speak to about this matter?

**Mr WESTON:** Geoffrey Hunt and Gerry Turrisi.

**The Hon. JOHN RYAN:** They are the only ones?

**Mr WESTON:** Well, the only two that I am aware of.

**The Hon. JOHN RYAN:** Are you aware of any inappropriate lobbying surrounding this particular proposal?

**Mr WESTON:** No.

**The Hon. JOHN RYAN:** Are you aware of any approaches to council staff asking them or urging them to process this proposal?

**Mr WESTON:** To me personally, no.

**The Hon. JOHN RYAN:** I mean to others.

**Mr WESTON:** No.

**The Hon. JOHN RYAN:** What sort of profile would you say that this application had within the council and council staff prior to its approval?

**Mr WESTON:** A profile that would only have been important to those that were dealing with it.

**The Hon. JOHN RYAN:** Would you have found that to be unexpected?

**Mr WESTON:** No.

**The Hon. JOHN RYAN:** It has been put to the Committee that this is the sort of proposal that politicians would love to be associated with; it was job generating, it was a significant proposal. Did you think it was unusual that they were not councillors showing an interest in that proposal for that reason?

**Mr WESTON:** If they did they never came to me.

**The Hon. JOHN RYAN:** I do not think it has been said in as many words but I think we need to put it to you in case words are put into your mouth afterwards, do you think there is any link between the approval for this project and anything associated with the Oasis project?

**Mr WESTON:** Not to my knowledge.

**The Hon. JOHN RYAN:** You do not think that there was any favour shown to Mr Gazal in order to get or curry from him some sort of favourable consideration for something crucial to the Oasis project?

**Mr WESTON:** Nothing to my knowledge.

**Ms SYLVIA HALE:** Was it common for inquiries to be made when a development application was being lodged as to how long they would take to process?

**Mr WESTON:** Yes.

**Ms SYLVIA HALE:** It was quite common?

**Mr WESTON:** To be asked?

**Ms SYLVIA HALE:** Yes.

**Mr WESTON:** Yes.

**Ms SYLVIA HALE:** Would it be Mr Turrisi whom you would normally expect to ask or would he be asked by someone and he would just merely pass on the request?

**Mr WESTON:** It could be asked of the planner or it could be asked of a manager or it could have been asked of a director as to how long it might take. It is not an unusual question.

**Ms SYLVIA HALE:** Would it be unusual for, say, an applicant to express a wish, "Is there any chance of it going through in two weeks, four weeks, six weeks?" Would that be trying to establish some sort of timeframe?

**Mr WESTON:** It is extremely unusual to be asked to determine something, even a building application, in two weeks.

**Ms SYLVIA HALE:** So particular people who are so accustomed to the process, as presumably Mr Mosca was, you would not expect him to be asking such a question, is that right?

**Mr WESTON:** That would be correct.

**The Hon. JAN BURNSWOODS:** I think you said before you left Liverpool council in January 2003?

**Mr WESTON:** 31<sup>st</sup>.

**The Hon. JAN BURNSWOODS:** And you also said before that Mr McCully had recently questioned you about this matter. What do you mean by "recently"? Do you remember when?

**Mr WESTON:** This week.

**The Hon. JAN BURNSWOODS:** Had he spoken to you at any time before this week?

**Mr WESTON:** No.

**The Hon. JAN BURNSWOODS:** Why did he speak to you about it this week?

**The Hon. PETER PRIMROSE:** It was mentioned on the Quentin Dempster program.

**Mr WESTON:** He wanted to know the interpretation that I had and what I had written in that memo, and he asked me some just general administration processes within council when I was manager.

**The Hon. JAN BURNSWOODS:** Why did he want to know this?

**Mr WESTON:** I would say because he is either the acting or is the general manager of Liverpool council. Directors are pretty short on the ground at the moment so he is trying to get some information from someone that does not work in the system.

**The Hon. JAN BURNSWOODS:** It seems slightly strange, as it is 21 months since you left the council and the events we are talking about, if you go back to June 2002, were 2¼ years ago, why Mr McCully is now coming to you to ask these questions? What is he seeking to achieve?

**The Hon. JOHN RYAN:** The memo was on TV.

**Mr WESTON:** My views of what had happened.

**The Hon. JAN BURNSWOODS:** But why?

**Mr WESTON:** You would have to ask Garry that.

**The Hon. JAN BURNSWOODS:** We have had Mr McCully here. We may have him again. You said before, I think, that you resigned in January 2003?

**Mr WESTON:** I took a redundancy.

**The Hon. JAN BURNSWOODS:** Because of a restructure?

**Mr WESTON:** That is correct.

**The Hon. JAN BURNSWOODS:** Who carried out the restructure?

**Mr WESTON:** It was interesting to know who did it, actually. There were a couple of directors running with it at the time.

**The Hon. JAN BURNSWOODS:** Can you give us their names?

**Mr WESTON:** Eric Heapy and Gerard Turrisi.

**The Hon. JAN BURNSWOODS:** Are we to understand that you felt somewhat victimised?

**Mr WESTON:** It was appropriate timing for my career to take a redundancy.

**The Hon. JAN BURNSWOODS:** But you said that a couple of directors were running with it?

**Mr WESTON:** That is correct.

**The Hon. JAN BURNSWOODS:** You seem to be suggesting that there was something perhaps not quite normal about it.

**The Hon. JOHN RYAN:** What did you mean by the word "interesting"? That suggests that you thought there was something untoward about it?

**The Hon. KAYEE GRIFFIN:** Perhaps I could ask a question that might resolve part of this?

**The Hon. JOHN RYAN:** Sure.

**The Hon. KAYEE GRIFFIN:** In terms of the restructure, was it just within your division?

**Mr WESTON:** No.

**The Hon. KAYEE GRIFFIN:** Or was it a proposal that was going across council?

**Mr WESTON:** Across council.

**The Hon. KAYEE GRIFFIN:** Under the terms of the Local Government Act it says that after each election council, within the first 12 months, will look at its structure and may make a determination to look at a restructure. Was it a council decision to restructure because of that or was it something that came up part of the way through the process?

**Mr WESTON:** I think it was in the middle of the process.

**The Hon. KAYEE GRIFFIN:** So it was not something that council had decided in the first 12 months after the 1999 election?

**Mr WESTON:** No.

**The Hon. KAYEE GRIFFIN:** It was something that came up through the directors?

**Mr WESTON:** My understanding was that council was looking to save money and if they could get rid of staff, then managers, directors and people above me as directors were also given redundancies.

**The Hon. KAYEE GRIFFIN:** How many divisions did council have before the restructure?

**Mr WESTON:** When I got there, there were 10 divisions—eight to 10 divisions and in the four years it went down to about four.

**The Hon. KAYEE GRIFFIN:** So it went to four after the restructure where you took a redundancy, is that right?

**Mr WESTON:** That was the last—that was the restructure that I was impacted upon, that is correct.

**The Hon. KAYEE GRIFFIN:** How many people were affected in the restructure? Was it just your division?

**Mr WESTON:** No.

**The Hon. KAYEE GRIFFIN:** It was right across.

**Mr WESTON:** There was transport, there was administration, there was the works department and others followed after I left.

**The Hon. KAYEE GRIFFIN:** But Mr Turrisi was an advocate for a restructure at the time?

**Mr WESTON:** Yes.

**The Hon. JAN BURNSWOODS:** You sound somewhat critical or even resentful about that restructure. Would that be a correct assessment?

**Mr WESTON:** I do not think anyone wants to be shown a redundancy, but to me, personally, it was the best thing that happened to me.

**The Hon. JAN BURNSWOODS:** That is talking in relation to what you have done since, but the impression I think we have all got—and Mr Ryan's comment as well as mine and Ms Griffin's—is that you felt—

**The Hon. JOHN RYAN:** There was a hidden agenda.

**The Hon. JAN BURNSWOODS:** Yes, perhaps a hidden agenda may be the phrase or that you personally felt that there was something going on?

**Mr WESTON:** Well, in a managers meeting with Gerard Turrisi and with the other managers, other managers were asked around the table "Any issues?" Other managers at that meeting would say, "How is the restructure going? We've heard that Eric has, sort of, got it on the backburner and it is just fizzing along" and others, through Gerry it would be said, "Well, no, it's full steam ahead. The restructure is happening." So you had two strains in there, sort of pushing. I went and spoke to Eric Heapy, who was the director of—it is hard to keep track of names—corporate services I think it might be called. I said, "Eric, what's happening with the restructure?" He said, "Mate, don't worry about it. You'll be right. No problem. You'll be right." I said, "Fine. We'll see what happens." It had already been put on paper, so it was—

**The Hon. JAN BURNSWOODS:** But are you suggesting that Mr Turrisi had an agenda to get rid of you?

**Mr WESTON:** I can honestly say I do not know why it happened. I honestly do not know.

**The Hon. JAN BURNSWOODS:** It sounds as if it was not done according to proper processes?

**Mr WESTON:** It was process. It was upfront. There was a scheme written.

**The Hon. JAN BURNSWOODS:** But you are talking about meetings where one lot of people are saying no, you will be right, there is nothing happening, but Mr Turrisi, sort of, in other places saying—

**Mr WESTON:** Well, Gerard then took the community services directorate as well as the planning directorate, only for a short time before he actually resigned from council. So, again, there was a director taken out, another salary saved, so one director took over two. Peter Conroy, who was with us, went to South Sydney. His position got amalgamated into Gerard's, so Gerard basically had development planners, strategic planning, community services and manager of environment, I think, so it was a multiskilled directorate.

**The Hon. JAN BURNSWOODS:** There seems to have been a very high attrition rate of all those involved in dealing with the outlet centre?

**Mr WESTON:** They just fell off the trees as the weeks and months went on.

**The Hon. JOHN RYAN:** There might have been other things going on besides the outlet centre.

**Ms SYLVIA HALE:** Apparently you felt quite hard done by?

**Mr WESTON:** No.

**Ms SYLVIA HALE:** It seems to me that you were given assurances on the one hand that you would be right and then on the other hand you received your redundancy notice. Was that treatment meted out to other council officers that you are aware of, these false assurances?

**Mr WESTON:** Well, I think it would have been known generally with the other managers when we had meetings with other managers, "Is it on or is it off? What is happening? Are you staying or are you going?"

**Ms SYLVIA HALE:** So there was an air of uncertainty?

**Mr WESTON:** A definite air of uncertainty, 100 per cent.

**Ms SYLVIA HALE:** Even despite the fact that you were given assurances and other people may have been given assurances, they did not amount to anything when it came to the crunch?

**Mr WESTON:** Well, 34 years in local government, if someone has put it in print that there is going to be a restructure, it might not happen in a month but it will happen in six months, so you might as well get on with your life and decide to be somewhere else rather than waiting around.

**The Hon. KAYEE GRIFFIN:** Did you accept a voluntary redundancy?

**Mr WESTON:** Yes.

**The Hon. KAYEE GRIFFIN:** In the new structure your position disappeared?

**Mr WESTON:** It was amalgamated with another manager.

**The Hon. KAYEE GRIFFIN:** Did this restructure receive council approval? How much did the general manager of the day have to do with it and who was that at the time?

**Mr WESTON:** Brian Carr.

**The Hon. KAYEE GRIFFIN:** But it did not go to council?

**Mr WESTON:** It would have had to have gone to council, I would imagine.

**The Hon. KAYEE GRIFFIN:** I would have thought so.

**Mr WESTON:** Yes.

**The Hon. JOHN RYAN:** The Orange Grove process, did it not have a prior consideration by the council for a change of use or something? Prior to this development application was there not a previous application by the proponent to approve this by another means and it was told after a period of time it had been rejected?

**Mr WESTON:** I honestly do not know any history of that particular application. I know that there was one prior to that where the building was given approval for bulky goods warehouse but not the one that you are referring to.

**The Hon. JOHN RYAN:** Mr Gazal, I think, has told the Committee a story, or I think Mr Mosca said that it was originally presented to Liverpool council and after a period of time he was then informed, "Look, we can't process it this way. You will need to lodge a different DA." I think in the view of Gazcorp and Mr Mosca, it had actually been with the council for some period of time and by this stage they were expressing frustration that they had spent five months getting nowhere, so there was some pressure on council staff, at least if it is going to go via another route, it ought to be quickly determined. Do you remember anything to do with that?

**Mr WESTON:** I have no knowledge of it and I do not even recall the application, but obviously there must have been some sort of pre-lodgement meeting for certain people.

**The Hon. JOHN RYAN:** I think this is other than pre-lodgement. I think this was another, change of use I think they described it as.

**The Hon. JAN BURNSWOODS:** Why do you say that obviously there must have been?

**Mr WESTON:** It would be unusual for a job of this size, if Mr Mosca was presenting the application, that there would not have been some sort of discussion prior to lodging it with council.

**The Hon. JAN BURNSWOODS:** So whom would they have discussed it with? You said before that you were not aware of any pre-lodgment discussion?

**Mr WESTON:** It was even before—I do not think that Geoffrey Hunt would have actually been there in February of that year.

**The Hon. JAN BURNSWOODS:** I think we asked Mr Hunt these questions and I do not think he had any contact with it before June.

**Mr WESTON:** It must have been with others but I do not know who they were.

**The Hon. JAN BURNSWOODS:** So does this brings us back yet again to Mr Turrisi as the most likely person?

**Mr WESTON:** As the director he may have been, but I do not know. As I said I know nothing, I can recall nothing about the application. I saw the file and my memory is quite good once I see a file but, you have got to realise, you are dealing with thousands of applications a year.

**The Hon. JAN BURNSWOODS:** But in terms of the size, if it is true that there were pre-DA discussions, if they were not with you and they were not with Mr Hunt, would Mr Turrisi be the most likely individual?

**Mr WESTON:** It could have been with a previous planner named Joanne Tapp, who was the senior planner before Geoffrey Hunt was employed.

**(Conclusion of evidence in camera)**

**(Short adjournment)**

**(PUBLIC HEARING RESUMED)**

**JULIAN THOMAS BROPHY**, Director, Orion Communications, Sydney, sworn and examined:

**CHAIR:** We now resume the public hearings. Mr Brophy, thank you for being here today.

**Mr BROPHY:** Thank you.

**CHAIR:** Mr Brophy, I need to go through some procedural matters with you. What is your occupation?

**Mr BROPHY:** I am a media consultant as well as a government liaison consultant.

**CHAIR:** In what capacity are you appearing before the Committee today—as an individual or representing an organisation?

**Mr BROPHY:** I was invited to appear before the Committee. I am a director of Orion Communications.

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

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

**CHAIR:** If you should consider at any stage that certain evidence you wish to give or documents you may wish to tender should be heard or seen only by the Committee, please indicate that fact to the Committee and it will consider your request. Do you have a short statement with which to commence proceedings?

**Mr BROPHY:** A very brief verbal statement. I was invited to appear before the Committee and I am very happy to do so. I appear in my capacity as an employed fee-for-service consultant for AMP Capital Investors with respect to their rezoning application at the Cross Roads at Casula.

**CHAIR:** Thank you. Are there any questions?

**The Hon. JOHN RYAN:** Did you seek any legal advice prior to coming to the Committee today?

**Mr BROPHY:** No, I have not.

**The Hon. JOHN RYAN:** What was your involvement in regard to the Orange Grove matter?

**Mr BROPHY:** I have not been involved in the Orange Grove matter. I was retained by AMP Capital Investors. AMP Capital Investors have a project or a proposal for rezoning at Cross Roads at Casula, which is their existing bulky goods retailing centre.

**The Hon. JOHN RYAN:** Is it not a fact, though, that you were making representations to Mr Michael Meagher with regard to the Orange Grove proposal because it was somehow or other linked? The fate of the proposal you were lobbying about at the Cross Roads was somehow linked to whatever the Government might have done in regard to Orange Grove?

**Mr BROPHY:** The proposed rezoning of the Cross Roads was submitted to Liverpool council I think in November 2003. Liverpool council took the decision for the rezoning of Cross Roads to be joined with the rezoning of Orange Grove Road as part of the same amendment to the local environmental plan.

**The Hon. JOHN RYAN:** Can you explain who AMP Capital Investors are?

**Mr BROPHY:** AMP Capital Investors is part of the AMP group.

**The Hon. JOHN RYAN:** Do they have some relationship with Westfield?

**Mr BROPHY:** I understand that they do have a relationship with Westfield, Liverpool and that AMP is a 50 per cent shareholder.



*Inquiry into the Approval of the Designers Outlet Centre, Liverpool*

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**The Hon. JOHN RYAN:** Can you tell us who it is from AMP who employs you? Who do you liaise with in AMP Capital Investors?

**Mr BROPHY:** I am employed by Mr Jeff Tucker at AMP Capital Investors.

**The Hon. JOHN RYAN:** Were you also doing work on behalf of Direct Factory Outlets?

**Mr BROPHY:** Direct Factory Outlets was the proposed head tenant for the additional retailing space at the Cross Roads Casula site, so they were linked in the development proposal.

**The Hon. JOHN RYAN:** Do you liaise with someone from Direct Factory Outlets?

**Mr BROPHY:** Yes, I do.

**The Hon. JOHN RYAN:** Could you tell the Committee who that person is?

**Mr BROPHY:** Mr Bill Patterson.

**The Hon. JOHN RYAN:** Is his office in Sydney?

**Mr BROPHY:** Yes.

**The Hon. JOHN RYAN:** Do you recall meeting with Michael Meagher, Chief of Staff of Ms Beamer, about your proposal?

**Mr BROPHY:** Yes, I do.

**The Hon. JOHN RYAN:** Can you tell us when that happened and what you discussed?

**Mr BROPHY:** There were three occasions on which I met Mr Meagher from Minister Beamer's office. The first occasion was I think in February 2004. The purpose of that meeting was to brief Mr Meagher on the proposed rezoning at Cross Roads, Casula.

**The Hon. JOHN RYAN:** So that is February. Okay. You said there were others.

**Mr BROPHY:** I had a second meeting in my capacity as consultant to AMP Capital Investors with Mr Meagher on 22 April 2004 and a further meeting on 27 April 2004.

**The Hon. JOHN RYAN:** Can you tell us what representations you made to Mr Meagher on each of those occasions?

**Mr BROPHY:** Certainly. The meeting in February 2004, the purpose of that was to brief Mr Meagher on the proposed redevelopment or rezoning at Cross Roads, Casula. It was a significant proposal with job creation of about 1,000 jobs—so a significant project in the south-west region of Sydney. The purpose of that meeting was to brief him on that proposal at that time. The two meetings subsequent—the 22 April 2004 meeting and the meeting on 27 April 2004—followed the decision by the administrator of Liverpool council to separate the Cross Roads, Casula rezoning application from the proposed amendment to the LEP. That matter was deferred at a council meeting in early April.

**The Hon. JOHN RYAN:** What form did the meetings of 22 April and 27 April take?

**Mr BROPHY:** They were meetings at a coffee shop.

**The Hon. JOHN RYAN:** Did you present Mr Meagher with any documentation?

**Mr BROPHY:** Not at that time, but I did write to Mr Meagher, I think, after the 22 April 2004 meeting.

**The Hon. JOHN RYAN:** I have a letter dated 11 March addressed to Mr Meagher which reads:

*Inquiry into the Approval of the Designers Outlet Centre, Liverpool*

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Dear Michael

Re AMP Cross Roads Site, Casula.

I am writing to you with respect to the above project. At our previous meeting with representatives of AMP and Direct Factory Outlets there was some discussion with respect to the draft definition which forms the basis of the proposed amendment to the Liverpool LEP.

What was the previous meeting to which you were referring?

**Mr BROPHY:** That would be the 20 February 2004 meeting.

**The Hon. JOHN RYAN:** Sorry, that was 20 February. Who attended that meeting? Was that meeting attended by more than yourself?

**Mr BROPHY:** Yes, it was.

**The Hon. JOHN RYAN:** Who attended that meeting?

**Mr BROPHY:** Myself, Mr Bill Patterson of DFO, and Mr Jeff Tucker from AMP, and I would need to check but I think Mr Tom Zarimis from AMP also attended that meeting.

**The Hon. JOHN RYAN:** Which representatives of the Government attended that meeting?

**Mr BROPHY:** Mr Michael Meagher attended that meeting, and an officer from the department, David Birds, also attended that meeting.

**The Hon. JOHN RYAN:** Were there any other people representing the Government attending that meeting at all?

**Mr BROPHY:** No.

**The Hon. JOHN RYAN:** There were no other ministerial staff?

**Mr BROPHY:** My recollection was that Mr Michael Meagher, as Chief of Staff, was at the meeting, and Mr David Birds from the department.

**The Hon. JOHN RYAN:** Why were you making a representation to Ms Beamer at that time, or to Ms Beamer's staff, as opposed to perhaps Mr Knowles as the planning Minister?

**Mr BROPHY:** We had met with Mr Knowles's office in September of 2003 to brief them on the proposal as well.

**The Hon. JOHN RYAN:** I see. I have probably asked you the wrong questions then. Did you have other meetings with the Government in regard to this proposal as well then?

**Mr BROPHY:** Yes. In September of 2003—I do not recall the specific date—I met with Mr Emilio Ferrer, and with representatives of AMP and Austechs, which is the parent company of DFO, attended that meeting as well. And the purpose of that meeting was to brief Minister Knowles's staff on the proposal.

**The Hon. JOHN RYAN:** Was there some reason why you were only briefing Mr Knowles's staff and Ms Beamer's staff, and not the Ministers themselves?

**Mr BROPHY:** I think it is entirely appropriate, on a project of this size, to ensure that the staff, if not the Minister, are aware of the benefits that this project would bring. This was a 1,000-job creation project, so it was a rather large project.

**The Hon. JOHN RYAN:** Did you seek a meeting with the Ministers at the time and just get the Chief of Staff, or did you only approach the Chief of Staff?

*Inquiry into the Approval of the Designers Outlet Centre, Liverpool*

---

**Mr BROPHY:** In the instance of Minister Knowles, I think we did seek a meeting with the Minister, but we did meet with Mr Ferrer. In the case of Minister Beamer's office, I think we sought a meeting directly with Mr Meagher. That is the best of my recollection, that we sought the meeting directly with him.

**The Hon. JOHN RYAN:** Would it be fair to say that you have had previous experience as a Chief of Staff for a New South Wales Minister, Mr Refshauge?

**Mr BROPHY:** I need to correct that. I have never been Chief of Staff. I was Dr Refshauge's press secretary between 1995 and 1999.

**The Hon. JOHN RYAN:** So were Mr Meagher and Mr Ferrer known to you prior to your meetings?

**Mr BROPHY:** Mr Ferrer was known to me. I knew Mr Meagher from a previous personal connection, but didn't know him in any professional capacity at that time.

**The Hon. JOHN RYAN:** At your meeting of 20 February what were you seeking from Mr Meagher?

**Mr BROPHY:** We were not seeking any outcome—simply to brief Mr Meagher on the proposal.

**The Hon. JOHN RYAN:** What would you have been seeking with regard to Mr Knowles when you were wanting to make a representation to him?

**Mr BROPHY:** The same.

**The Hon. JOHN RYAN:** You are aware of course that I think the Cross Roads site is within the electorate of Mr Knowles, is it not, or, if not, in close proximity?

**Mr BROPHY:** I think that is correct, yes.

**The Hon. JOHN RYAN:** So he might have had another reason to have an interest in that project in that he is the local member.

**Mr BROPHY:** I think there were important issues that had to be raised, particularly given the size of the project. There are not many privately developed projects that deliver a thousand jobs in a growing area of Sydney, and that was the key reason.

**The Hon. JOHN RYAN:** Were you seeking to give Mr Knowles information though as the local member for Macquarie Fields or as the planning Minister?

**Mr BROPHY:** As the planning Minister.

**The Hon. JOHN RYAN:** What was the proposal for the Cross Roads?

**Mr BROPHY:** The Cross Roads is an already existing bulky goods outlet or retail centre. There are a number of large national brand retailers on the site, including Bunnings, and a whole range of others. The proposal was for an expansion of about 20,000 square metres to provide additional capacity at that centre. To achieve that, the land on which that would be sited required rezoning.

**The Hon. JOHN RYAN:** Do you recall what the rezoning is?

**Mr BROPHY:** I could not answer what category it went from, but there was the need for a rezoning to make the use permissible.

**The Hon. JOHN RYAN:** I notice that your letter to Mr Meagher dated 11 March, to which we have already referred, you intended to circulate to Mr Knowles, Ms Beamer, Mr Gary Prattley, Mr David Birds and Mr Stephen Driscoll. What was the purpose of circulating it to all of those people?

*Inquiry into the Approval of the Designers Outlet Centre, Liverpool*

---

**Mr BROPHY:** To ensure that there was consistency in terms of our message regarding the proposed develop.

**The Hon. JOHN RYAN:** And what was your message?

**Mr BROPHY:** That we felt that the proposed rezoning met planning controls, that the proposed rezoning would create a number of benefits for the community, and that were it judged on its planning merits it should be approved.

**The Hon. JOHN RYAN:** So your submission was in favour of approving the Orange Grove site, was it?

**Mr BROPHY:** At all times in my work on this project AMP Capital Investors have made the point that there is significant capacity within the region to support both Orange Grove Road and additional expansion of the Cross Roads centre at Casula, and I have brought planning documents which were submitted which make specific reference to that point.

**The Hon. JOHN RYAN:** Were you at any time making submissions to either Mr Meagher or the Government generally suggesting that the Minister should not approve the Orange Grove site because its approval alone would have prejudiced the opportunity for the Cross Roads site to be considered?

**Mr BROPHY:** After the decision by the Liverpool administrator at the beginning of April to separate the Cross Roads or defer the Cross Roads amendment I sought a meeting with Michael Meagher on two occasions, which I have referred to before the Committee, and it is fair to say that the decision of Liverpool council to remove and defer the Cross Roads rezoning was not one that was accepted very positively at the time. But I would state that I have never been given any instruction to lobby, nor have we deliberately lobbied, against Orange Grove Road, and in fact—

**The Hon. DAVID OLDFIELD:** Go on. You were going to say "and in fact".

**Mr BROPHY:** And in fact in the planning documents we have made at all times the real assertion that both sites could coexist together, that I think Peter Leyshon's independent assessment of the economic impact indicated that there would be potential growth of around \$170 million in the area, which was more than adequate to support both Cross Roads and Orange Grove Road.

**The Hon. JOHN RYAN:** I have some correspondence, I think, from Gilbert and Tobin, who I think are lawyers acting for the Cross Roads site. Are you familiar with their submissions to Mr Driscoll and Mr Knowles in which they submit that "DIPNR and the Minister should refrain from making any decision on council's submission under section 68.4 of the EP&A Act dated 14 April 2004," which I understand is the application for a rezoning, "as that submission is invalid. DIPNR and the Minister should only proceed to make a decision on the draft plan if and when the flaws in the council's process have been remedied." Then they go on to say that the "flaws cannot be remedied by DIPNR and the Minister making a decision on the Cross Roads site after making a decision on the Orange Grove site. The two sites must be considered together." Is that essentially the message that you were conveying?

**Mr BROPHY:** I am not aware of those documents. I have not seen those submissions. And that is not the position that I am aware of.

**The Hon. JOHN RYAN:** So what were you wanting to convey to Mr Meagher on 22 April and on 27 April at that time?

**Mr BROPHY:** I think expressing a disappointment that the Cross Roads application had been removed and deferred by Liverpool council. When the submission was lodged formally with Liverpool council, Liverpool council took the step to bring the Orange Grove Road and the Casula Cross Roads rezoning together, and that was how the two matters were being assessed. It was then Liverpool council's decision to defer Cross Roads at the beginning of April.

**The Hon. JOHN RYAN:** Who from your organisation asked you to seek a meeting with Mr Meagher?

**Mr BROPHY:** I was instructed by AMP Capital Investors.

*Inquiry into the Approval of the Designers Outlet Centre, Liverpool*

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

**Mr BROPHY:** In discussions with Mr Tucker and Mr Zarimis.

**The Hon. JOHN RYAN:** What did they ask you to request of Mr Meagher?

**Mr BROPHY:** To seek a meeting to express that we felt the decision by Liverpool council was a disappointment.

**The Hon. JOHN RYAN:** Were you aware at the time you were making your submissions that there was active consideration of the Orange Grove proposal under way within the Department of Infrastructure, Planning and Natural Resources?

**Mr BROPHY:** I was aware there was consideration, because the two proposed amendments were joined together. So, yes, I was aware.

**The Hon. JOHN RYAN:** Is it not fair to say that the people you were representing would have preferred there to be no decision on the Orange Grove matter? If they were only going to be considered separately, they would have preferred the Minister to decline the rezoning at that point?

**Mr BROPHY:** I think, given that Liverpool council had made the decision in November of 2003 to join the two rezoning applications together, the fact that at the beginning of April in 2004 the Cross Roads rezoning was removed from that proposed amendment did cause concern.

**The Hon. JOHN RYAN:** So they certainly would not have wanted the Minister to proceed with the application that Liverpool council had submitted at that point.

**Mr BROPHY:** There is no indication whatsoever that there was any opposition to the Orange Grove Road amendment, and we have stated quite clearly that Orange Grove Road and Cross Roads should coexist together. It was a disappointment, however, the decision by the administrator of Liverpool council to remove and defer the Cross Roads proposed rezoning from the amendment.

**The Hon. JOHN RYAN:** I notice, as I drew your attention to earlier, your letter had been circulated to Mr Gary Prattley, Mr David Birds and Mr Stephen Driscoll, all of whom are officers of DIPNR. Why did you circulate it to them and how did you know that they were the right people to circulate it to?

**Mr BROPHY:** I understood them to be, those people to be the relevant officers within the department.

**The Hon. JOHN RYAN:** Relevant officers within the department doing what?

**Mr BROPHY:** Addressing these issues of retailing and, broadly, issues to do with SEPP 66 and to do with the proposed amendments.

**The Hon. JOHN RYAN:** Did you, were you not aware of the fact that they were the very officers who were preparing the section 69 report that specifically dealt with Orange Grove?

**Mr BROPHY:** I can't say whether I was aware of that at the time or not.

**The Hon. JOHN RYAN:** Who told you that they were the officers, then, to circulate it to?

**Mr BROPHY:** I can't recall who said that at the time, but it was knowledge that they were the appropriate people through which to cc a copy of that correspondence.

**The Hon. JOHN RYAN:** Have you ever met with those people personally?

**Mr BROPHY:** Could you go through the names for me again, please?

**The Hon. JOHN RYAN:** That's Mr Prattley, Mr Birds or Mr Driscoll.

*Inquiry into the Approval of the Designers Outlet Centre, Liverpool*

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**Mr BROPHY:** I've met Mr Prattley on several occasions over many years. Mr Birds I met for the first time in that meeting in February of 2004 with Mr Meagher. The other man, sorry?

**The Hon. JOHN RYAN:** Mr Driscoll.

**Mr BROPHY:** Mr Driscoll, I think I had a meeting with him in about May of 2003.

**The Hon. JOHN RYAN:** Did you—when—do you recall when you—have you met Mr Prattley specifically for the purpose of briefing him on the Cross Roads proposal?

**Mr BROPHY:** No.

**The Hon. JOHN RYAN:** Did you meet any of the other people also for the purpose of briefing them on the Cross Roads proposal?

**Mr BROPHY:** I think the Cross Roads proposal in its early form was discussed, perhaps, with Mr Driscoll. I can't—I would have to go back and check any notes I have of that.

**The Hon. JOHN RYAN:** After you had finished meeting with Mr Meagher were you aware of any further representations from AMP to meet with the Minister or express views other than, you know, to express, to make representations to the Minister?

**Mr BROPHY:** I am not aware of any other representations that were made to meet that I wasn't attending at.

**The Hon. JOHN RYAN:** Are you aware of any communication between Westfield Holdings and AMP regarding the Cross Roads matter?

**Mr BROPHY:** I am unaware of any correspondence or other communication about it.

**The Hon. JOHN RYAN:** Are you aware of the fact that Westfield has consistently advocated publicly, and I believe privately, against the Orange Grove proposal and were you aware of that when you were making your representations to Mr Meagher?

**Mr BROPHY:** All I was aware of was AMP Capital Investors and the Australian Core Property Portfolio, which is the portfolio unit within AMP Capital Investors, which runs and owns the project, had always stated that it could coexist with Orange Grove Road and that there was sufficient capacity within the region for both centres, Cross Roads and Orange Grove Road, to successfully work.

**The Hon. JOHN RYAN:** Is it not true that AMP Capital Investors are the part owner of the Liverpool Westfield building, the Westfield shopping plaza at Liverpool?

**Mr BROPHY:** As I've said already to the Committee, I am aware that AMP has a shareholding in Westfield Liverpool. I do not know the corporate structure under which that shareholding is held.

**The Hon. JOHN RYAN:** All right. Does it seem—has anybody ever explained to you that one of the issues I suppose the Committee has asked questions about why it seems there's a part of Westfield lobbying against a partner?

**Mr BROPHY:** I haven't had that discussion internally. I was made advised, or advised of the fact that Westfield, or AMP, had a 50 per cent shareholding, but at the same time the core elements of our proposal were that both Cross Roads and expanded Cross Roads and Orange Grove Road could successfully work together.

**The Hon. JOHN RYAN:** Madam Chair, I heard the alarm go. This is an appropriate spot for me to break, if other members want to and I will come back.

**CHAIR:** Okay. Thank you. Sylvia Hale.

*Inquiry into the Approval of the Designers Outlet Centre, Liverpool*

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**Ms SYLVIA HALE:** Yes, Mr Brophy, you said that on 20 February the meeting with Mr Meagher to brief him on the Cross Roads proposal was Bill Patterson, Geoff Tucker, yourself, possibly someone else from AMP, David Birds and Michael Meagher attended. Then you said that subsequent to the Liverpool administrator's decision to separate what has been one LEP into two that you then had a meeting on 22 April. Presumably at that meeting you managed to, you articulated the concerns with the process at that stage?

**Mr BROPHY:** We articulated disappointment at the decision of the Liverpool council administrator.

**Ms SYLVIA HALE:** Mmm.

**Mr BROPHY:** And that we felt that the Cross Roads should be considered on its planning merits.

**Ms SYLVIA HALE:** Okay. Why was it necessary to have another meeting on 27 April?

**Mr BROPHY:** The meeting on 22 April was a meeting attended by Austech, parent company of DFO—

**Ms SYLVIA HALE:** I thought you said—sorry. But didn't you say earlier that one was in a coffee shop?

**Mr BROPHY:** Yes, both of them were.

**Ms SYLVIA HALE:** So you had a representative from Austech. Who was the representative?

**Mr BROPHY:** Mr Geoff Porsz and Mr Bill Patterson.

**Ms SYLVIA HALE:** Okay. So, you were with Geoff Porsz and Bill Patterson and yourself met in a coffee shop on 22 April with Mr Meagher?

**Mr BROPHY:** That's correct.

**Ms SYLVIA HALE:** Okay. Did that meeting last for—?

**Mr BROPHY:** I would say about 15 minutes, 15 to 20 minutes.

**Ms SYLVIA HALE:** Why, then, did you have another meeting on 27 April?

**Mr BROPHY:** That meeting was conducted with representatives of AMP Capital Investors.

**Ms SYLVIA HALE:** And who were they?

**Mr BROPHY:** To my recollection Mr Tom Zarimis and Mr Geoff Tucker.

**Ms SYLVIA HALE:** So, what, was the feeling that at the second meeting, that 27 April meeting, that would add further substance to what had already been said, or—?

**Mr BROPHY:** No. The Austech or DFO were the proposed head tenant for the expansion at Cross Roads, Casula. AMP are the project initiators for it. It was felt, and I was under instruction from AMP, that Austech wanted to express its disappointment as well about the decision of the Liverpool administrator with the respect that the rezoning had been deferred. And so the two meetings were essentially the same, but reflecting slightly different interests as owner, AMP Capital Investors, and Austech, which was the head tenant.

**Ms SYLVIA HALE:** Did it take you long to set up those meetings with Mr Meagher.

**Mr BROPHY:** I can't recall how long it was, but the decision taken by the Liverpool administrator I think, as far as I can recall, was around 13 April.

**Ms SYLVIA HALE:** You see, what we've been told is that there was the meeting with Mr Wedderburn and Mark Ryan from Westfield on 19 April, or at least that was—I think they spoke on the 16th but they met on the 19th and as a result of that there seemed to have been very strongly worded advice given to Minister Beamer via Mr Meagher or via—it went from Wedderburn to Mr Carr to Mr Meagher and then to the Minister that she

*Inquiry into the Approval of the Designers Outlet Centre, Liverpool*

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should avoid any inappropriate lobbying and expectation was that lobbying might occur, but we've had no evidence of it having occurred. But in this context, not only did Mr Ryan ask for a meeting and get one very, very speedily, but you seem to have been able to ask for meetings and get them equally speedily. It does seem to me a very sort of unbalanced or imbalanced access to key ministerial staffers.

**Mr BROPHY:** At that time AMP Capital Investors was no longer a party to the proposed amendment of the LEP regarding Orange Grove Road. That had been removed by the Liverpool council administrator earlier in the month. In answer to your question, there was nothing inappropriate in both parties being able to express their disappointment that a significant project, millions of dollars, leading to the creation of a thousand possible jobs had been deferred.

**Ms SYLVIA HALE:** Look, I couldn't agree more that where you have major projects that you feel that may be being derailed for whatever reason, that it is probably, possibly appropriate to talk to the Minister. But what I do find unusual is that whilst some people are given very speedy access another group who have equally great financial interests in a project are excluded from lobbying anyone. Your impression as a former staffer to Dr Refshauge, do you think this is what, par for the course?

**Mr BROPHY:** No, I don't think so at all. I could not list the number of times where I sought appointments and those appointments have not been made. Yes, I worked for Dr Refshauge, but for seven years prior to that I was a journalist and on-air presenter at the ABC. I left Dr Refshauge's employment in 1999. The decision to meet with me and to meet with AMP Capital Investors and with Austech, the parent company of DFO, to question that decision, you would need to put that question to Michael Meagher as to why he made that, but at the end of the day we had those meetings on both those occasions.

**Ms SYLVIA HALE:** Mmm. Now, you sought and got a meeting with Michael Meagher after the meeting had taken place with Graeme Wedderburn on the 19th?

**Mr BROPHY:** I'm only aware of the date of the meeting from you telling me now.

**Ms SYLVIA HALE:** Okay.

**The Hon. JOHN RYAN:** Are you aware of that meeting that happened when Mr Wedderburn, the chief of staff of the Premier, where he warned Minister Beamer and Mr Meagher and Mr Ferrer about accepting any lobbying on the issue of Orange Grove?

**Mr BROPHY:** I'm not aware of that meeting. I was not aware of the meeting at the time or near the time that that took place. I've only been subsequently made aware of that as a result of the hearings of this Committee.

**The Hon. JOHN RYAN:** So, when you sought a meeting with Mr Meagher on the, I think around 22 April—sorry.

**Ms SYLVIA HALE:** You've got 22nd and 27th.

**Mr BROPHY:** It was somewhere between 13 April and the 22nd.

**The Hon. JOHN RYAN:** Did Mr Meagher express any reservations about seeing you in view of warnings he had been given from Mr Wedderburn or the Premier's Office? Was Mr Meagher aware of the fact that you were going to come and make representations to him about the issue of the Orange Grove site, among other things, but that this meeting would naturally involve the Orange Grove site?

**Mr BROPHY:** It didn't involve the Orange Grove Road site.

**The Hon. JOHN RYAN:** Well I put to you that your letter dated 22 April addressed "Dear Michael" the key points are—I'm quoting from your letter—"The 28th of April date with respect to the Orange Grove Road development is not an appropriate deadline for decisions to be made on this serious issue and does not provide proper opportunity for all issues relating to the rezoning of both sides to be given due consideration." That's the very first paragraph of your letter.



*Inquiry into the Approval of the Designers Outlet Centre, Liverpool*

---

**Mr BROPHY:** And—

**The Hon. JOHN RYAN:** And it also mentions Orange Grove a second time in your letter. Isn't a fact that your meeting necessarily, even from your request for a meeting on 22 April, mentioned: We're going to meet about Orange Grove. You addressed it to Mr Meagher. This occurs days after Mr Meagher had received a note from the Premier's Office: Don't see anyone for inappropriate lobbying, and you see him for a cup of coffee about this very issue?

**Mr BROPHY:** I disagree with that assessment. At the end of the day Liverpool council elected in November of 2003 to join the Cross Roads proposed rezoning amendment with that of Orange Grove Road. And in the beginning of April the council administrator made the decision, took the decision to separate them both and to defer the Cross Roads assessment.

**The Hon. JOHN RYAN:** But you obviously had an opinion on Orange Grove. As you state in your letter you have an opinion that it's not appropriate to make it by a particular, you know, to make this decision by a particular time. So you make it clear to him in the letter on 22 April that you want to meet with him and to discuss the issue of the Orange Grove site, among other things, and its relationship to the proposal you were representing. Were you aware of the fact that Mr Meagher had specifically received a warning from the Premier's Office about admitting lobbyists on the issue of Orange Grove? Did he say that to you, that there was—

**Mr BROPHY:** Nothing to that effect was said to me.

**The Hon. JOHN RYAN:** Right.

**The Hon. DAVID OLDFIELD:** That was the end of Sylvia's time, was it?

**Ms SYLVIA HALE:** Yes.

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

**CHAIR:** Yes. We'll have to get back to Sylvia.

**The Hon. DAVID OLDFIELD:** So, Mr Brophy, all of these meetings were held in a coffee shop, were they?

**Mr BROPHY:** No, they weren't.

**The Hon. DAVID OLDFIELD:** Which were the ones that weren't held in a coffee shop?

**Mr BROPHY:** The meeting in February 2004 with Michael Meagher was held in a ministerial office and the meeting in September of 2003 with Mr Ferrer was also held in a ministerial office.

**The Hon. DAVID OLDFIELD:** Okay. I'm sorry, I don't drink coffee so I don't ever understand these, is it common—it's dreadful stuff. It'll kill you.

**The Hon. JOHN RYAN:** I believe it's good for keeping your memory going.

**The Hon. DAVID OLDFIELD:** It's not good for anything. It hasn't got a single redeeming feature. Is it a normal thing to be having meetings of this consequence in coffee shops—especially when you have got several people? Just in a practical sense I would have thought it was difficult for several people to sit around in a coffee shop talking about matters regarding multimillion-dollar developments with government officials and departmental officers.

**Mr BROPHY:** I couldn't comment on that. They were the arrangements that were made for those meetings.

**The Hon. JOHN RYAN:** Politics is synonymous with coffee shops and pubs, David.

*Inquiry into the Approval of the Designers Outlet Centre, Liverpool*

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**The Hon. DAVID OLDFIELD:** Yeah, and all sorts of other bad things. Whose idea was the coffee shop? Was that yours or was that Meagher's idea?

**Mr BROPHY:** I can't recall.

**The Hon. DAVID OLDFIELD:** You can't recall—"We'll just slip out and have a cup of coffee and a chat." I know this has already been sort of raised, but you said a moment ago you don't ever have any trouble getting any meetings.

**Mr BROPHY:** I never said that.

**The Hon. DAVID OLDFIELD:** Didn't you say that you'd always gotten meetings you'd requested—or words to that effect?

**Mr BROPHY:** No, what I was saying was I couldn't list the number of meetings I requested that weren't agreed to.

**The Hon. DAVID OLDFIELD:** Oh, okay. On this occasion you got them all, though.

**Mr BROPHY:** Well, I sought a meeting with Minister Knowles in September of 2003 and we were referred to Mr Ferrer, his Deputy Chief of Staff.

**The Hon. DAVID OLDFIELD:** But you still got to see his Chief of Staff and you had three occasions when you got to see Minister Beamer's Chief of Staff. Also—

**Mr BROPHY:** That was over a period of nine months.

**The Hon. DAVID OLDFIELD:** Well, the three occasions when you got to see Minister Beamer's Chief of Staff I thought were on the 20th of the second, the 22nd of the fourth and 27th of the fourth—isn't that a period of two months?

**Mr BROPHY:** I thought you were talking about the total number of meetings.

**The Hon. DAVID OLDFIELD:** Well, we've got three within eight weeks. That's not bad, I would have thought, on the same issue.

**Mr BROPHY:** I think it is entirely appropriate when you are dealing with a significant development with significant community benefit—

**The Hon. DAVID OLDFIELD:** Oh, I agree with you.

**Mr BROPHY:** That is an entirely appropriate form of ensuring that the Government is fully informed of the benefits of those proposals.

**The Hon. DAVID OLDFIELD:** I agree with you; it's appropriate for the Government to meet with people. I don't think anyone is suggesting it was inappropriate that you had meetings. I think the suggestion is how strange, and perhaps inappropriate, it is that some people get meetings and some people don't—you get three in eight weeks and the people building Orange Grove can't get one at all with anybody at any stage. Now you do have this situation, as Mr Ryan and Ms Hale have described, where on the 20th—I mean, more so than the meeting between Wedderburn and Ryan on the 19th—Wedderburn specifically instructed Minister Beamer's office about this corruption warning and about being lobbied and then you have a meeting with Meagher and various other people in a matter of two meetings in seven days following that anticorruption meeting. So I don't think anyone is suggesting anything inappropriate with your having meetings.

**Mr BROPHY:** But I would reiterate the point that at the 20th of April, and in fact on the 13th of April, the Cross Roads, Casula, rezoning had been removed as a decision by the council administrator from the proposed amendment to the LEP. As such, Cross Roads was no longer a party to that LEP.

*Inquiry into the Approval of the Designers Outlet Centre, Liverpool*

---

**The Hon. DAVID OLDFIELD:** The meetings of the 22nd and the 27th, I gather from what you have said that the only purpose of those meetings was for the two groups—AMP and Austech—to independently get the opportunity of putting forward their dissatisfaction to Minister Beamer's office. Is that right?

**Mr BROPHY:** The decision was taken for those meetings because both parties felt they needed to express that they were disappointed with the decision that had been taken.

**The Hon. DAVID OLDFIELD:** So what were they seeking from having expressed their disappointment?

**Mr BROPHY:** There was no outcome that was sought. They wanted to express their disappointment and surprise that the council administrator had decided to defer Cross Roads and at the same time progress Orange Grove Road for determination by the department—

**The Hon. DAVID OLDFIELD:** So you actually managed—

**Mr BROPHY:** in contrast to the planning process which had been under way at council prior.

**The Hon. DAVID OLDFIELD:** And there was absolutely nothing else sought—no outcome sought, no changes sought, no change in result—they merely wished to express their disappointment at what had taken place.

**Mr BROPHY:** That's correct.

**The Hon. DAVID OLDFIELD:** So in the course of a period of six or seven days following the big meeting of the 20th you actually managed to secure two meetings of Michael Meagher just to tell him off.

**Mr BROPHY:** No, I'd disagree with that statement.

**The Hon. DAVID OLDFIELD:** Well, in a sense—it might be my more colourful way of describing it. But essentially Michael Meagher agreed to meet with you on two occasions with two separate groups that were related to the same development just so they could say how upset they were.

**Mr BROPHY:** At the decision of the administrator of Liverpool council and that this was a project that they had previously been briefed on and that this was a project which had significant benefits for the south-west region, and that had been deferred.

**The Hon. DAVID OLDFIELD:** Mr Brophy, I won't ask you the question: Don't you find it strange you can get all these meetings, especially considering the content of the meetings? I won't ask you: Don't you find that strange in comparison with the Orange Grove people, because I know there is no particular reason why you would have a view on it? But I'm sure that the Committee is probably interested. We'll have to ask other people.

**The Hon. PETER PRIMROSE:** Then why ask the question?

**CHAIR:** Government members?

**The Hon. PETER PRIMROSE:** I think at this stage we're happy with Mr Ryan's continued forensic questioning of the bourgeoisie.

**The Hon. JOHN RYAN:** That's a bit rough.

**The Hon. DAVID OLDFIELD:** Was it a Gloria Jean's?

**The Hon. JOHN RYAN:** If I refer to your letter of 22nd April—are you familiar with the letter that I am speaking about?

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

*Inquiry into the Approval of the Designers Outlet Centre, Liverpool*

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**The Hon. JOHN RYAN:** Just to explain a couple of phrases in it, you say to Mr Meagher, "At that time a possible means of resolving the current impasse was identified." What did you mean by the "current impasse" and what was the means that was resolving it? What did you mean by that?

**Mr BROPHY:** The council administrator had decided to remove Cross Roads, to defer it seeking additional information from the department with respect to the application.

**The Hon. JOHN RYAN:** Yep.

**Mr BROPHY:** We were of the position at that time that it was important for both applications to continue to be assessed at the same time, given that that was the process that had been commenced by Liverpool council.

**The Hon. JOHN RYAN:** So the impasse means something—

**Mr BROPHY:** What it means is that at that time the Cross Roads rezoning application had been removed and was deferred.

**The Hon. JOHN RYAN:** So you mean by "impasse" only something to do with the Cross Roads, not Orange Grove.

**Mr BROPHY:** Certainly it was to do with Cross Roads because at that time the application was deferred.

**The Hon. JOHN RYAN:** At the end of your letter you outline a four-point plan to resolving the impasse that you've identified—which I think, to be fair, you've summarised, "There needs to be some more information received from Liverpool council with a view to accelerating Liverpool council's further consideration of Cross Roads deferring the Orange Grove Site consideration." And you've said, "I hope that this provides some additional assistance in your current considerations and look forward to your earliest response." What did you mean by the words "your current considerations"? What considerations was Mr Meagher making?

**Mr BROPHY:** Well, the Court of Appeal was sitting again I think on the 28th of April and the Court of Appeal had ordered the Orange Grove Road centre to be closed—I think that was in January, the initial orders were given. And on the 28th of April the court was going to hear further argument with respect to it. So I knew the issue was being worked on and obviously employing the time of Mr Meagher at that time.

**The Hon. JOHN RYAN:** And what did Mr Meagher say would happen as a result of your discussions with him? Did he give you any reason to believe that there might be some possibility that the Liverpool council would be approached with a view to getting further action on the Cross Roads site?

**Mr BROPHY:** None at all.

**The Hon. JOHN RYAN:** Why did you then seek to meet with him again if he basically said, "It's all hopeless"?

**Mr BROPHY:** As I expressed before, the meeting of the 22nd of April was with Austech and the meeting on the 27th of April was with AMP Capital Investors.

**The Hon. JOHN RYAN:** So it was the same submission made twice.

**Mr BROPHY:** Exactly the same.

**The Hon. JOHN RYAN:** What did Mr Meagher say then in response to that?

**Mr BROPHY:** Mr Meagher listened to the expression of disappointment and said very little—and certainly gave no undertaking or no agreement to make any action or any outcome whatsoever.

**The Hon. JOHN RYAN:** Can you tell us who attended the April 27 meeting and whether there were any representatives from DIPNR present?

*Inquiry into the Approval of the Designers Outlet Centre, Liverpool*

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**Mr BROPHY:** There were no representatives of DIPNR—it was Mr Meagher, Mr Zarimis, Mr Tucker and myself.

**The Hon. JOHN RYAN:** So Mr Meagher was the only Government representative listening to your submission.

**Mr BROPHY:** That's right.

**The Hon. JOHN RYAN:** Did he undertake to draw them to the attention of Ms Beamer?

**Mr BROPHY:** Not at all.

**The Hon. JOHN RYAN:** Did you expect him to?

**Mr BROPHY:** We did not request that.

**The Hon. JOHN RYAN:** Well, what would be the point of speaking to him?

**Mr BROPHY:** To ensure that he understood—

**The Hon. JOHN RYAN:** But he's not a decision maker.

**Mr BROPHY:** But he's an adviser to the Minister and it was to ensure that he understood the level of disappointment that AMP Capital Investors had at this project being removed from the proposed amendment by the administrator of the council.

**The Hon. JOHN RYAN:** But surely you'd have expected that information to be passed on to somebody who could do something about your disappointment, wouldn't you?

**Mr BROPHY:** I couldn't make any comment as to whether there was an expectation that he would pass it on to the Minister or not. I have no knowledge that he did or did not do that.

**The Hon. JOHN RYAN:** Surely the people you were with, representing AMP and Austech, would have said to Mr Meagher, "We want you to draw this to the attention of the Minister", otherwise there is no point in going and seeing ministerial staff, is there?

**Mr BROPHY:** I thought they thought it was completely sufficient to ensure that the Chief of Staff in the Minister's office was aware of that disappointment.

**The Hon. JOHN RYAN:** Even though he's not an elected representative, even though he doesn't make any decisions.

**Mr BROPHY:** As I said, they would have been completely satisfied with the fact that the Chief of Staff of the Minister's office was aware of that level of disappointment.

**The Hon. JOHN RYAN:** Mr Brophy, I might say that I have never had a person make a submission to me in my office on the issue of government policy that hasn't wanted me to take that submission somewhere in the political system—whether it be to refer it to a Minister—

**The Hon. JAN BURNSWOODS:** That may be a comment on your importance or lack of it.

**The Hon. JOHN RYAN:** I have to say I have also had experience of working for a Minister for Police. No-one made submissions to me without ever wanting—it wasn't just enough for me to know because I wasn't a player; they always wanted me to put it in the hands of someone who could do something—

**The Hon. JAN BURNSWOODS:** As I said, it might be a comment on you rather than on anything else.

*Inquiry into the Approval of the Designers Outlet Centre, Liverpool*

---

**The Hon. JOHN RYAN:** Put it in the hands of somebody who could do something about it. I mean, why would you waste your money briefing an adviser who can't do a thing for you?

**The Hon. JAN BURNSWOODS:** Why would you assume that other people are as unimportant as you?

**CHAIR:** Order!

**The Hon. JOHN RYAN:** Look, will the peanut gallery just be quiet?

**CHAIR:** Order! Let Mr Brophy answer the question.

**Mr BROPHY:** It was understood to be satisfactory to ensure that the Chief of Staff of the Minister's office was aware of that disappointment.

**The Hon. JOHN RYAN:** So if he did nothing about it that was a perfectly reasonable exercise—for you all to spend your time briefing him for him to do nothing about it?

**Mr BROPHY:** At the end—

**The Hon. JOHN RYAN:** You put a plan to him and the plan consists of four points which are meant to go towards some sort of conclusion, which would enable your proposal to get considered as part of DIPNR. I mean, surely you were wanting him to say, "Look, this is the solution which the Minister might consider" and get back to us as to whether she considered it to be acceptable. I mean, there's nothing wrong with saying that. I'm just saying: Why didn't you?

**Mr BROPHY:** But that was also the position on the date of that letter of the 22nd of April with the court hearing on the 28th of April, which may in fact have enforced the order for Orange Grove Road to be closed at that time. We were not aware that that would be extended and felt that we had to make this representation at that time to express our disappointment that the Cross Roads rezoning, which for three months had been assessed by Liverpool council jointly with Orange Grove Road, had at the beginning of April been removed from that process.

**The Hon. JOHN RYAN:** How were you going to get DIPNR to do points 2, 3 and 4 in your plan? How was that going to happen by just simply telling Mr Meagher? You wanted DIPNR to request information from the administrator of Liverpool council "as a matter of urgency" and, fourthly, you said, "Following the administrator's decision on the Cross Roads site the amendment can be assessed by DIPNR so its effect on both sides can be decided simultaneously." How was that going to happen? Who are you going to ask to make that happen? It obviously wasn't going to happen until you asked. How were you going to make that happen?

**Mr BROPHY:** Well, my understanding of the process is that Liverpool council would have written to DIPNR after the deferral at the beginning of April to seek that additional information.

**The Hon. JOHN RYAN:** But they weren't going to do it as a matter of urgency.

**Mr BROPHY:** I couldn't comment on that.

**The Hon. JOHN RYAN:** Well, you've said that "the additional information sought from DIPNR by the administrator be provided as a matter of urgency." How were you going to get that to happen by speaking to Mr Meagher?

**Mr BROPHY:** As I said, it was deemed satisfactory to raise these issues with the Chief of Staff of the Minister's office.

**The Hon. JOHN RYAN:** Well, I put it to you that the reason you went to see the Chief of Staff and to put your four-point plan—which is a reasonable one; I don't suggest there was anything improper about it—what you wanted was you wanted Michael Meagher to get the Minister interested in progressing the suggestions of maybe if not yourself, you were the facilitator, but that AMP and Austech wanted the Minister to do these things. The purpose of seeing the Minister's Chief of Staff was to get the Minister's Chief of Staff to draw this to her attention and get people in the department to make these things happen for them.

*Inquiry into the Approval of the Designers Outlet Centre, Liverpool*

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**Mr BROPHY:** And as I have said, I am unaware if that did or did not happen.

**The Hon. JOHN RYAN:** I'm aware of that but surely at least a request would have been made.

**Mr BROPHY:** I think that's why we went and saw the Chief of Staff of the Minister's office to make clear our position—that we were extremely disappointed at the decision of the Liverpool administrator to remove the Cross Roads rezoning amendment from the proposed LEP amendment.

**The Hon. JOHN RYAN:** But that is not what this letter says. It doesn't say—it says more than you were disappointed; it says that there's a way out of the impasse, here is the way and you obviously, the people who were making the representation, wanted the Minister to take this path out of the impasse, didn't they?

<20>

**Mr BROPHY:** They wanted to express their disappointment at that decision.

**The Hon. JOHN RYAN:** I put it to you that it was more than just expressing their disappointment. There is a four-point plan to go somewhere.

**Mr BROPHY:** I cannot provide any further comment.

**The Hon. JOHN RYAN:** They could not have cared less whether their request was acted on or not. They sat passionately expressing their disappointment. You had advocated a four-point plan and they never asked the question, could you do something to make this happen?

**Mr BROPHY:** I thought it was entirely appropriate that we sought a meeting to express disappointment at that decision, which fundamentally changed the assessment of the Cross Roads application as it had been undertaken over the previous three months.

**The Hon. JOHN RYAN:** Sorry, how did that happen?

**Mr BROPHY:** Because of what the administrator decided to do, which was to remove the Cross Roads rezoning.

**The Hon. JOHN RYAN:** Are you aware that Mr Meagher did seek advice from DIPNR in response to your letter and sought urgent advice from DIPNR as a result of a letter you wrote?

**Mr BROPHY:** I only became aware of that after reading testimony of his appearance here at the Committee.

**The Hon. JOHN RYAN:** Are you aware that your submissions did come at a critical time in the consideration of the Orange Grove matter in that almost up to the date of 28 April all of the representations—DIPNR racing the decision to get it finished, and there is even correspondence that indicates that it was going to be presented to the Minister and the director-general very quickly, and it slowed down very quickly after your submissions?

**Mr BROPHY:** I think it was a matter of public record and it was certainly a record of the Court of Appeal that the matter would return to the court on the 28<sup>th</sup>. That was widely known.

**The Hon. JOHN RYAN:** Are you aware that solicitors acting for AMP Capital Investors after those meetings sent basically legal letters to the Minister informing her that they would take legal action if she went ahead and approved the Orange Grove site?

**Mr BROPHY:** I am not aware of those submissions.

**The Hon. JOHN RYAN:** The final questions I ask you relate to the submissions you made. Do you share the views put by AMP Austech that the Cross Roads, and Orange Grove for that matter, are areas of growth and are going to attract another 142 residents over the median term, 130,000 new residents over the next five years and that all these developments will have a beneficial impact on the economy of south-western Sydney generally?

*Inquiry into the Approval of the Designers Outlet Centre, Liverpool*

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**Mr BROPHY:** We stated from the outset that we believed that both Orange Grove Road and the extended Cross Roads could co-exist because there was sufficient growth in the area, and the forecasts of growth were quite large to accept both developments.

**The Hon. JOHN RYAN:** I suppose the only further hurdle that had to be overcome for Cross Roads in particular, is that it is about 10 kilometres out of the Liverpool CBD and, to the best of my knowledge, it is not accessible by public transport at all. How were its proponents going to solve those obvious problems in terms of conflict with the centres policy in that there is just no public transport links at all?

**Mr BROPHY:** My understanding, and this is from reading the planning documentation in support of the application, was that it was consistent with the provisions of the draft SEP 66 in that it was an already existing, legally operating centre, that this was an extension to that centre and that it was on a good transport link.

**The Hon. JOHN RYAN:** What is the good transport link?

**Mr BROPHY:** It had good road access.

**The Hon. JOHN RYAN:** So the argument by AMP was that it was an existing centre in any event and all you were doing was adding to its existing centre?

**Mr BROPHY:** I cannot recall the size, but there is already a Bunnings, a K-Mart garden centre and a whole range of others at Cross Roads, Casula. So this was an application for an additional 20,000 square metres.

**Ms SYLVIA HALE:** Mr Brophy, you mentioned that you read the testimony and you are now aware that Mr Mark Ryan went to Mr Wedderburn with these assertions of a web of influence, that there was a stench, a smell, whatever, emanating from Liverpool council. Yet you seem to believe that the original decision that was made by the council should have been adhered to and you seem to be expressing great disappointment at the decision that was made by the administrator to replace what was obviously a council that was dismissed under a considerable cloud. You are suggesting that that decision was an incorrect one or an unfortunate one, would you agree?

**Mr BROPHY:** I am not making the statement that it was an incorrect decision. It was not a decision that made us feel great about our project. At the end of the day it was a decision to defer it.

**Ms SYLVIA HALE:** Given all the evidence the Committee has heard about the importance of SEP 66, the importance of access by public transport and the whole range of considerations along those lines, the fact that it would divert activity away from the CBD of Liverpool, you must be feeling very pessimistic about the prospects of the Cross Roads site, is that correct?

**Mr BROPHY:** My understanding of the independent economic analysis indicated that the region's growth in potential spending would be around \$170 million.

**Ms SYLVIA HALE:** That seems not to be the conclusion of the Director-General of Planning, Ms Westacott, or Mr Prattley, after he changed his mind, or the Minister's view. They seem to believe that the Cross Roads site will have a very deleterious effect on the Liverpool CBD.

**Mr BROPHY:** I am not aware of their view. If that view was made in testimony, I have not read their testimony. All I can say is we believe there was significant potential for additional income in the area to be supported. There are large planned land releases in the area which will create significant additional market, and the Cross Roads could certainly support that as well as Orange Grove Road and Liverpool.

**Ms SYLVIA HALE:** So you believe these important social and economic considerations should go into the planning equation?

**Mr BROPHY:** I think there are a whole range of issues that need careful assessment in the determination of any application.

**Ms SYLVIA HALE:** Are AMP Capital Investors still pursuing the Cross Roads proposal?



*Inquiry into the Approval of the Designers Outlet Centre, Liverpool*

---

**Mr BROPHY:** At the moment, my understanding of the current position it is that Liverpool council needs to seek additional information from the Department of Infrastructure, Planning and Natural Resources, and I do not know at the moment where that process is.

**Ms SYLVIA HALE:** But you would agree that if a proposal to rezone the Cross Roads site is agreed to but the proposal to rezone the Orange Grove Road site is not, that this will create in the minds of the public a perception that justice has not been done?

**Mr BROPHY:** I could not comment on that.

**The Hon. JOHN RYAN:** Is there not a perception by the proponents of this that the Cross Roads site has to be a dead duck now given the decision on Orange Grove?

**Mr BROPHY:** At the moment the position is that the issue has been deferred.

**The Hon. JOHN RYAN:** Are they pursuing it at all now actively?

**Mr BROPHY:** My understanding is that there have been discussions with Liverpool council on seeking the additional information required from DIPNR, but that is the extent of it.

**The Hon. JOHN RYAN:** Recently, that is since the Orange Grove decision? That is since 11 July?

**Mr BROPHY:** No, subsequent to the decision by the administrator to defer the Cross Roads amendment.

**The Hon. JOHN RYAN:** Are you still being retained on this project?

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

**The Hon. DAVID OLDFIELD:** Given all of that, Mr Brophy, what would you believe that you would be saying to the Government, what sort of vein would you be taking in lobbying that would let it out of the bag to be able to give AMP what it wants after closing down Orange Grove?

**Mr BROPHY:** I do not understand the question you are asking?

**The Hon. DAVID OLDFIELD:** What is it you are going to do, what are you going to say to the Government, that is going to put it in a position to say it will fix the LEP for you?

**Mr BROPHY:** I think it is quite clear at the moment that we are not doing terribly much at the moment.

**The Hon. DAVID OLDFIELD:** But what is it you are going to be doing? What is going to be your position, where are you going to come from? How are you going to convince the Government that it should let you have what it did not let Orange Grove have?

**Mr BROPHY:** I have not had those discussions yet with my client, how to move forward as a result of what has been happening, so I cannot comment on that.

**The Hon. DAVID OLDFIELD:** What is it that Cross Roads offers that Orange Grove did not?

**Mr BROPHY:** I return to the point that we always supported—

**The Hon. DAVID OLDFIELD:** Yes, I understand that.

**Mr BROPHY:** —and said that there was enough capacity for them to co-exist. At the end of the day, Cross Roads is an existing centre and has an existing consent to operate.

**The Hon. DAVID OLDFIELD:** A situation not really different from Orange Grove?

*Inquiry into the Approval of the Designers Outlet Centre, Liverpool*

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**Mr BROPHY:** Well, in respect to the fact that this was a 20,000-metre extension, and I am not sure of the gross floor area at the moment, but a significant development.

**The Hon. JOHN RYAN:** Yes, it is twice the size of Orange Grove. I think there is one further problem in that the land you are seeking to develop is zoned industrial. It is not yet zoned bulky goods?

**Mr BROPHY:** Yes.

**The Hon. DAVID OLDFIELD:** Are you seeking a greater change than they were seeking?

**Mr BROPHY:** We are seeking a rezoning to make bulky goods retail a permissible use.

**The Hon. DAVID OLDFIELD:** Which is a greater change than they were seeking, because you are seeking to go from industrial to start with. What I am trying to get at it is what case can you mount, what position can you come from where the Government could look anything but crook if it were to grant what you wanted after what it did to Orange Grove?

**Mr BROPHY:** I will answer that respectfully by saying we have not given it any consideration.

**The Hon. JOHN RYAN:** Have you ever raised this with Dr Refshauge?

**Mr BROPHY:** Never.

**Ms SYLVIA HALE:** It is my understanding that the rezoning process and Orange Grove went from industrial, then to industrial special. Liverpool council interpreted the industrial special as allowing a retail outlet and when it found it could not have it under that it then sought to rezone it to expand the definition of bulky goods. Were you at the Casula site not only seeking to rezone it from industrial to industrial special but also to enlarge the definition of bulky goods to include retail selling?

**Mr WESTON:** My understanding is that the definition of the proposed amendment for both sites was the same.

**The Hon. PETER PRIMROSE:** If I can go back to the Liverpool council's consideration of the amendment to the LEP at its meeting on 8 December last year. Were you or the company you represent surprised that Orange Grove was tacked on to the Cross Roads LEP amendment?

**Mr BROPHY:** I could not comment for AMP.

**The Hon. PETER PRIMROSE:** Were you surprised?

**Mr BROPHY:** I was overseas at the time that decision took place. It was not something that I had perhaps anticipated.

**The Hon. PETER PRIMROSE:** Does it strike you now, having looked back on that event, as curious or odd that all the information in the LEP was data supporting the Cross Roads project but almost nothing in the report to council about Orange Grove?

**Mr BROPHY:** I was aware that there was a significant amount of information that had been provided supporting the amendment from the perspective of the Cross Roads.

**The Hon. PETER PRIMROSE:** And almost nothing in that document was about Orange Grove?

**Mr BROPHY:** I understood that the greater majority was dealing with the Cross Roads, yes.

**The Hon. DAVID OLDFIELD:** Given the circumstances of what has taken place and how here we are with Orange Grove, and whilst I understand your clients have not discussed with you what tack they might take to convince the Government to do the reverse of what it has done with Orange Grove, are you aware that next week the Premier will personally determine what happens to Orange Grove in the lower House?

<21>

*Inquiry into the Approval of the Designers Outlet Centre, Liverpool*

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**Mr BROPHY:** I am not aware of that.

**The Hon. DAVID OLDFIELD:** The upper House has actually moved to change the LEP. That would occur unless the lower House opposes that next week. So Bob Carr will now make the decision himself as to what takes place. It would be better, in the interests of your clients and those 1,000 jobs that you are talking about with your development, if they let it go through next week, would it not?

**Mr BROPHY:** Given that I am not briefed on what is being proposed before the Parliament, I do not think it would be appropriate for me to comment.

**The Hon. DAVID OLDFIELD:** I will make it easy for you. It is a simple situation that would allow Orange Grove to reopen.

**The Hon. JAN BURNSWOODS:** That is wrong.

**Ms SYLVIA HALE:** It would, in effect, expand the definition of "bulky goods".

**Mr BROPHY:** I could not comment on that.

**The Hon. JAN BURNSWOODS:** That is wrong.

**The Hon. DAVID OLDFIELD:** Given that you had always considered that Orange Grove and your development would coexist successfully, and given that you have not opposed Orange Grove, and given that you require, to a degree, more change than they require, would it not be in your interests for them to be allowed to exist rather than having the scenario set that they would close down and therefore potentially impact on your development negatively?

**Mr BROPHY:** As I have said, AMP Capital Investors has always held the position that the two centres could coexist quite comfortably.

**The Hon. DAVID OLDFIELD:** So now given the situation that one of them is not being allowed to exist at all and given that AMP requires the Government to actually do little more than Orange Grove require, would you not be concerned at Orange Grove having been closed, and would it not be preferable for Orange Grove now to be open? Would that not, once again, open the door that little bit further for your chances of approval?

**Mr BROPHY:** I think we have always been very comfortable with the position that we put forward a planning argument which strongly supported the rezoning at Cross Roads to enable the expansion of the existing centre.

**The Hon. DAVID OLDFIELD:** Yet you have not thought through how you will approach getting the Government to let you do what they would not let Orange Grove do?

**Mr BROPHY:** We have not had discussions as to how we work in the future on this project.

**The Hon. DAVID OLDFIELD:** You would not acknowledge that, given all those circumstances, the door would be open a little bit more easily or open a bit further by Orange Grove being open as well?

**Mr BROPHY:** At the end of the day Liverpool council has to seek the additional information from the department with respect to our proposal and at the end of the day, today, 10 September, that amendment, that proposed rezoning, remains deferred.

**The Hon. DAVID OLDFIELD:** At the end of the day the Minister has to approve it. Why should the Minister approve Cross Roads when they have closed Orange Grove?

**Mr BROPHY:** I could not comment on that scenario, I am sorry.

**The Hon. DAVID OLDFIELD:** Well, you are going to have to at some stage because surely you are going to have to put together a plan to make it happen?

*Inquiry into the Approval of the Designers Outlet Centre, Liverpool*

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**Mr BROPHY:** But, as I have responded, we have not done that at this point.

**The Hon. DAVID OLDFIELD:** So you are not just relying on pulling on a meeting with the Premier's chief of staff, like Westfield did, as being the way of getting it done?

**Mr BROPHY:** We have relied on a very thorough and robust planning argument, which was supported by planning merit, by the planning codes, to enable the expansion of Cross Roads at Casula. We believe that is in the best economic interests and job creation interests of the south-west region of Sydney.

**The Hon. DAVID OLDFIELD:** Is AMP concerned by the likelihood perhaps of Westfield lobbying as hard to stop your centre, as they have, to close Orange Grove down?

**Mr BROPHY:** I have not had any discussions of that kind. Having said that, I think I would return to the point that we have put forward a very effective, robust planning argument supporting an extension to an existing approved usage on the site.

**The Hon. DAVID OLDFIELD:** Are you aware of any meetings between AMP and Westfield, which I know is difficult seeing as they are partners, but are you aware of any meetings that have discussed calming Westfield down in relation to the impact that the Orange Grove scenario will potentially have on yours?

**Mr BROPHY:** I am not aware of any meetings which have been undertaken.

**CHAIR:** No further questions? I would like to thank you, Mr Brophy, for your attendance here today and for assisting the Committee.

**(The witnesses withdrew)**

**(The Committee adjourned at 3.35 p.m.)**