

1 THE TRIBUNAL RESUMED AS FOLLOWS ON THURSDAY, 25TH SEPTEMBER 2003

2 AT 10.30 AM:

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4 CHAIRMAN: Morning.

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6 MR. O'NEILL: Morning, Mr. Chairman, having reviewed the transcript overnight  
7 of Mr. Lawlor's evidence yesterday, Mr. Chairman, I find that I have no further  
8 questions to put to Mr. Lawlor in respect of the Carrick 1 involvement and,  
9 therefore, we can move on to another witness. If there are questions to be put  
10 to Mr. Lawlor by any of the parties present --

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12 CHAIRMAN: Mr. Finlay, do you wish to ask Mr. Lawlor anything?

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14 MR. FINLAY: No, Chairman, in the light of the evidence from yesterday, I have  
15 no questions arising, thank you very much.

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17 CHAIRMAN: All right. Thank you very much. Mr. Lawlor, you are not required  
18 now at this stage in relation to Carrickmines 1, I'm sure you will be pleased  
19 to hear. You will be afforded an opportunity at the end of the module at some  
20 stage in the future to make submissions, as will the others who have given  
21 evidence, so you will be informed in due course.

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23 MR. LAWLOR: Can I come up --

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25 CHAIRMAN: Certainly, yes.

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27 MR. FINLAY: I wonder, Chairman, before matters proceed, whether I might just  
28 make a procedural inquiry?

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30 CHAIRMAN: All right. I'll just -- it doesn't involve Mr. Lawlor I take it.

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MR. FINLAY: No.

MR. LAWLOR: Could I say, Mr. Chairman, you mentioned the 7th October, if I was in touch with the solicitors, could that be a movable date in --

CHAIRMAN: Well, within reason.

MR. LAWLOR: All right, thanks, Chairman.

CHAIRMAN: Thanks very much.

MR. FINLAY: Thank you, Chairman. I wonder if I might just enquire as to the, insofar as it's possible to judge the expected running order and timing of the witnesses who are listed not before today, that's five witnesses who appear on the most recent witness schedule.

CHAIRMAN: Well, we are hopeful that they will be dealt with I think today and possibly tomorrow, but certainly before the end of business tomorrow.

MR. FINLAY: I see.

CHAIRMAN: That's my understanding and then next week, the Tribunal won't be sitting at all.

MR. FINLAY: Very good, Chairman.

CHAIRMAN: And the following week then I think Mr. Caldwell will be giving evidence.

1 MR. FINLAY: Yes, I think that's anticipated and I have had a word with  
2 Mr. Quinn this morning about the possible timing for that.

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4 CHAIRMAN: All right.

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6 MR. FINLAY: Thanks very much.

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8 CHAIRMAN: Thanks very much.

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10 MR. QUINN: Emer McAuliffe, please.

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1 EMER MCAULIFFE, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS

2 BY MR. QUINN:

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4 Q 1 Good morning, Mrs. McAuliffe, you have provided a statement to the Tribunal and  
5 I propose to read that statement to the Tribunal and then I may ask you one or  
6 two questions arising from it, is that OK?

7 A That's fine.

8 Q 2 You say your name is Emer McAuliffe and you reside at 31 Cabinteely Avenue,  
9 Dublin 18. You have been requested to provide a statement to the Tribunal of  
10 Inquiry into Certain Planning Matters and Payments, and you do so as follows:

11

12 "My late father was a long-standing member of Fianna Fail. He had been on the  
13 Ard Comhairle of Fianna Fail for a long number of years and held a number of  
14 positions within Fianna Fail, including Constituency Chairman for Dun  
15 Laoghaire. You say your father would have known Senator Don Lydon. Dr. Pat  
16 Tubridy was a Senator for a number of years and was a constituency colleague of  
17 my father's. He was a psychiatrist in St. John of God's and Senator Lydon was  
18 a psychologist in St. John of God's so they would have often met at Fianna Fail  
19 functions and would have known each other over a number of years.

20

21 You say your father died suddenly on 1st May 1992. He died in his sleep. You  
22 found him yourself. He was 77 years of age when he died. You said he was very  
23 active in Fianna Fail right up to the end of his life. You said because it was  
24 a sudden death and your father had not seen a doctor within the previous six  
25 months, there had to be a post mortem. You go on to say you believe, this  
26 was carried out late on Sunday, 2nd May 1992. I know we published the usual  
27 notice in the newspapers. I can only recollect it being published in the Irish  
28 Times on Monday, 4th May. Frank Quinn, undertaker, of Glasthule dealt with  
29 that.

30

1 Paragraph 4 you said:

2 "My father was removed to Sallynoggin Church on the Sunday evening. The  
3 funeral mass took place at 10 o'clock on Monday morning, 4th May 1992. You say  
4 it was very upsetting time for the whole family and the date of the funeral is  
5 not one you would easily forget. You say you were listening to the news and  
6 hearing that Senator Lydon was supposed to have received money on Monday, 4th  
7 May. You say your initial reaction was Senator Don Lydon and his wife attended  
8 your father's funeral on that morning. You go on to say I had clarified the  
9 year and date that had been mentioned, I checked if my husband had any  
10 recollection of Senator Lydon attending my Dad's funeral. While he couldn't be  
11 one hundred per cent, he also had a memory of Senator Lydon and his wife being  
12 at the church. You say you checked the Tribunal website and that confirmed  
13 that the day in question was indeed the 4th May 1992. Having decided to phone  
14 Senator Lydon and I realised that did not have a phone number for him and I had  
15 to consult with Dun Laoghaire/Rathdown County Council website to get his home  
16 phone number.

17  
18 5th: You say his wife, Maeve, answered the phone. I told her who I was and  
19 the purpose of my call. The following is my recollection of the conversation.  
20 She said "Hang on a minute." She got Senator Lydon and he came to the phone.  
21 Having exchanged the normal pleasantries, I said something like, "Don, for what  
22 it's worth, I don't know, but I was just listening to the news and they were  
23 talking about the day you were supposed to have got the money from Frank  
24 Dunlop. The day they are talking about is Monday, 4th May 1992." He said  
25 "That's right" and I said "That was the morning of Dad's funeral."  
26 He said "Oh was it?" And I said "Yes, it was." Senator Lydon then said, "When  
27 was the removal?" I told him "The removal was Sunday night." He said "I  
28 wasn't there on the Sunday night." I said "I have a recollection of seeing you  
29 outside the church. I can't swear to it but I would be 80 to 90 percent  
30 certain that you were there." He asked me did we have a Book of Condolences

1 and I said "There was one somewhere, but where it is now, 12 years later, I  
2 don't know." I said "I would have a look for it but I can't guarantee  
3 anything" and we left it at that.

4

5 Paragraph 6 you say:

6 "Senator Lydon rang me back approximately a week later and apologised for being  
7 a little abrupt with me during the previous telephone conversation because he  
8 had had a bad evening. He thanked you for ringing and asked if there was any  
9 chance you could find the Book of Condolences. You said you would try. You  
10 searched high up and low down but it wasn't in any of the places I would expect  
11 to find it. I checked with my brother and my sisters and they all thought I  
12 had it. I thought some of them had it. Unfortunately, I cannot put my hand on  
13 it. I wish I could because it might clear things up one way or the other.

14

15 Paragraph 7. You say the funeral took place in Sallynoggin Church. It is a  
16 large church and was full to capacity. As I came out of the church there were  
17 numerous people standing around, as they do. I have a memory of seeing Senator  
18 Lydon, Maeve, and a group of other Fianna Fail people over to my right. I do  
19 not remember actually speaking to him. There was a number of concelebrants at  
20 the mass, including Dad's cousin, who is a priest based in Scotland.

21 Therefore, I would have come out of the church close to 11 am. I believe that  
22 the rest of the family and I were outside the church talking to people for  
23 approximately 20 minutes. Quite a lot of relatives had travelled up from the  
24 country. I cannot remember whether I recall seeing Senator Lydon and his wife  
25 at the beginning, middle or end of my time outside the church following the  
26 funeral.

27

28 Paragraph 8. You say that "I am the political member of my family and my  
29 brothers and sisters would not then have recognised Senator Lydon and do not  
30 have any recollection of seeing him. I have been involved in Fianna Fail since

1 the early 1970s. I am constituency delegate to the Ard Comhairle of Fianna  
2 Fail at present for Dun Laoghaire. In 1992 I was more likely a delegate to the  
3 Comhairle Dail Ceanntar. I was not involved in Ogra by that time. I was  
4 probably taking more of a back seat at that point because I had a baby and my  
5 husband was more involved than I was.

6  
7 Paragraph 9. You say, my first conversation with Senator Lydon about this  
8 issue took place on the day the news broke. I cannot remember exactly when  
9 that was. I believe it was before Christmas. I cannot remember whether  
10 Senator Lydon said anything to me about my recollection he had of being at my  
11 late father's funeral. My only motivation for telephoning him was to jog his  
12 memory. I felt that he might remember other people he was with that day and  
13 they might be able to say to him, "Yes, you were there" or "No, you weren't."  
14 My only role was to let know that was happening that particular morning. At no  
15 stage did I think he might have been at the removal as opposed to the funeral  
16 mass. My recollection was seeing him after the funeral mass.

17  
18 10. By any standard, my father's funeral was a very large one. As well as the  
19 people he met through politics, he was a Clare man and had a lot of relations  
20 and a wide circle of friends. Afterwards, when the family discussed the  
21 funeral, each of us talked more about the people we had not seen than the  
22 people we had. For instance, I would say something like "I didn't see so and  
23 so there." And other family members would say "Well, I saw them. I was  
24 talking to them." And there was conversations like that. At the removal the  
25 evening before, hundreds of people filed by to shake hands and express their  
26 condolences in the church. This did not take place in the church at the  
27 funeral mass, rather people waited until we went outside.

28  
29 11. I have had four conversations with Senator Lydon about this issue. I have  
30 described the first two above. The third conversation took place a number of

1 weeks ago when he telephoned me to ask if I would speak to his solicitor. He  
2 also asked if I had any luck with the Book of Condolences. I looked again that  
3 night and searched upstairs in the attic. At that stage, it was about the only  
4 place I had not looked but I could not find the Book of Condolences. Senator  
5 Lydon's solicitor rang me subsequently and we had the same conversation which I  
6 had had with Senator Lydon. He said he would speak to Senior Counsel and see  
7 where it went from there. The fourth conversation took place when Senator  
8 Lydon rang me following me giving my interview to the Tribunal. He stated that  
9 he understood the Tribunal had been in contact with me and apologised for  
10 getting me involved. I stated that he did not 'get me involved' and that I  
11 initiated the contact and volunteered the information that I had.

12  
13 Paragraph 12. I know Senator Lydon and his wife, Maeve, reasonably well. I do  
14 not know them socially but would see him from time to time at political  
15 functions such as at an Ard Fheis or out canvassing. I would have met him  
16 last during the general election. I may have met him at the Taoiseach's dinner  
17 in December in Citywest Hotel. I never socialised with Senator Lydon or his  
18 wife. For instance, I do not even know if he has a family.

19  
20 Paragraph 13. Apart from my immediate family, my husband and siblings, I have  
21 not discussed the possibility of Senator Lydon being at my late father's  
22 funeral with any other people other than the parties I have identified, (i.e.  
23 Senator Lydon himself, his solicitor and now the Tribunal).

24  
25 14. In summary, I am 80 to 90 percent certain that Senator Lydon was at my  
26 father's funeral but I cannot be a hundred percent certain and I do not have  
27 the Book of Condolences. Since receiving a letter from the Tribunal, I have  
28 not heard anything further from Senator Lydon or his solicitor. If I find the  
29 Book of Condolences, I will certainly contact the Tribunal immediately. We  
30 only have a portion of the mass cards from the funeral and these were divided

1 up. Unfortunately, they do not assist in clarifying things further."

2 Dated 1st May 2003."

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4 That's a statement, Mrs. McAuliffe, that you provided to the Tribunal through  
5 your solicitor, is that right?

6 A That's correct.

7 Q 3 And if I could just summarise it, you have a recollection, you think, of seeing  
8 Senator Lyndon about 11 o'clock outside the church on the 4th May, is that  
9 right?

10 A That's correct.

11 Q 4 Thank you very much.

12

13 CHAIRMAN: Perhaps it might be useful, Mr. Quinn, if you would could remind the  
14 Tribunal as to precisely what evidence was given by Mr. Dunlop as to what he  
15 says occurred on that morning, just to put it into context.

16

17 MR. QUINN: Yes. On Day 342, Mr. Dunlop, following exchange with counsel, is  
18 dealing with the question 124:

19 "Am I correct in thinking that the motion which I have referred to earlier in  
20 your evidence was dated 4th May 1992?

21 Answer: The submission dated of the motion was the 4th May 1992, correct.

22 Question: And we have your diary on the screen, that is 1492, we see that on  
23 the 4th May you had a meeting at 9.30 on Monday, 4th with Don L. Can you  
24 identify that person?

25 Answer: Don Lydon.

26 Question: Where did that meeting take place?

27 Answer: At his place of work in Stillorgan.

28 Question: What was the purpose of that meeting?

29 Answer: The purpose of the meeting was to obtain the signature to the motion  
30 to be submitted later that day."

1 It's in that context you give your evidence, is that right?

2 A That's correct, yes.

3

4 CHAIRMAN: All right, is there anybody here who wishes to ask the witness any  
5 questions? No. Mr. Finlay, I take it you don't want to? All right. Thank  
6 you very much for attending to give evidence.

7 A Thank you.

8

9 THE WITNESS THEN WITHDREW

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11 MR. QUINN: Mr. Tom Gibson, please.

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1 MR. TOM GIBSON, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS

2 BY MR. QUINN:

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4 Q 5 I should say; Chairman, that Mr. Gibson has a hearing impediment and,  
5 Mr. Gibson, I understand that you have some hearing difficulties?

6 A I have indeed, yes.

7 Q 6 Mr. Gibson, you have supplied a number of statements to the Tribunal and I  
8 propose to go through two of your statements.

9 A Yes.

10 Q 7 What I propose to do is to read the statements. I don't know if you have a  
11 hard copy of the statement that you delivered?

12 A I have, yes.

13 Q 8 In August 2002 and another one in November 2002.

14 A Yeah.

15 Q 9 If you have any difficulty, please let me know, as I go through the statement,  
16 OK?

17 A OK, yeah.

18 Q 10 You have your first statement for the attention of the Tribunal and it's a  
19 statement of Tom Gibson, former official of Dublin County Council and Dun  
20 Laoghaire Rathdown County Council.

21 "My name is Thomas Gibson, I was a planning official with:

22

23 (1) Dublin Corporation, Planning Assistant Grade Two from November 1964 to May  
24 1970.

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26 (2) Wicklow County Council, Chief Planning Assistant from May 1970 to June  
27 1979.

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29 (3) Dublin Corporation, Development Control Assistant, Grade One, June 1979 to  
30 January 1980.

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(4) Dublin County Council, Chief Planning Assistant/Senior Executive Planner, from February 1980 to December 1993. And you say, during this period I also worked on secondment for the Eastern Regional Development Organisation, (ERDO), from November 1982 to April 1985 as a member of the team developing a settlement strategy for the region.

(5) Dun Laoghaire/Rathdown County Council from January 1994 to October 1999.

I retired from Dun Laoghaire/Rathdown County Council on the 1st October 1999 on reaching retirement age of 65." Is that correct?

A Yes.

Q 11 You say that you no longer have any access to county council files and have had to prepare this statement from "cryptic notes of appointments in my diaries, from published documents such as the County Development plans and the motorway EIS." That's Environment Impact Statement, is that correct?

A Yes.

Q 12 "And from my recollection of events at the time under investigation."

You go on to say that:

"During the period from 1987 to April 1993, I worked as a member of the team of planners on the preparation of a review of the County Development Plan which was eventually adopted by the council as "Dublin County Development Plan 1993". As I had developed some computer expertise, my tasks were mainly researching and preparing data for background papers. It also required development of typing skills and considerable study of computer programming and software development to produce required information. The main tasks were:

1. Neighbourhood study/questionnaire cataloging, coding, data entry and analysis.
2. Analysis of population statistics as supplied by the Central Statistics Office.

1 3.3 Research buildings and structures for preservation and conservation  
2 listing.

3 4. Assist and in the preparation of background review papers for presentation  
4 to the council on such matters as population, Review of Objectives, industry,  
5 housing, urban and rural, shopping, parks and leisure neighbourhoods, land use,  
6 etc.

7  
8 As I don't have copies, I am unable to list all the papers prepared. There  
9 were between 12 and 15 as far as I can recall.

10  
11 These papers were presented to the council at a series of meetings during 1988.  
12 Mr. Enda Conway, senior planner, did the presentations to the council and Mr.  
13 Denis Daly, chief technician, displayed the maps on the overhead projection  
14 system where appropriate. After the background papers were presented, the  
15 draft plan was prepared. As each section of the Draft Written Statement or Map  
16 was finalised, it was presented to the council. I think this took place during  
17 1989, 1990 and 1991."

18  
19 You say that a considerable amount of your time in 1989 was spent in carrying  
20 out inspections and scheduling of the Buildings and Structures to be listed for  
21 preservation. My recollection is that the draft plan was accepted by the  
22 council at that stage as the "Manager's Plan" and was put on public display on  
23 the Draft County Development Plan 1991.

24  
25 You say your role during the display period was taking part on the rota of  
26 officials in attendance at the display to assist the public in understanding  
27 the material on display. During and after the display, the public were  
28 entitled for a limited period to make representations for changes to the draft  
29 plan. These representations could be made either by written submission or by  
30 oral submission.

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As far as I recall, for the oral submissions two officials took the hearings and noted down what the members of the public stated. It was then typed up, checked for accuracy and certified by one of those officials. These hearings were taken on a rota basis. I took part in that rota system.

Once the statements were certified, they were then catalogued and mapped with the other written submissions. The submissions were then examined by the professional team and recommendations made on the merits or otherwise of submissions. As many advocated rezonings outside the areas already recommended in the draft, these were usually recommended for rejection because of lack of services. The draft itself had been drawn up on the basis of available services for the area proposed or on the potential capability of the council to service the areas within the period of the plan. Accordingly, the rejection recommended for those submissions was because they exceeded the potential capability of the council to service them also.

It was also a very traumatic time for me personally as shortly before work started on the review in 1987, my wife developed a brain tumour and epilepsy and required all my available time and attention in caring for her up to the time of her death in August 1992.

Other than carrying out my allotted tasks for the council I did not take much interest in the manner in which the council members carried out their responsibilities. I was also subject to increased deafness so that even when I attended the council meetings I was unable to hear much of the deliberation in the chamber. This was further diminished for me by the structural column in the chamber which obscured a considerable part of the area from the seating area available for officials. My role in attending these meetings was to supply supporting information to Mr. Conway should he require it in answering

1 any queries raised by the council members on the subject matter being  
2 presented.

3  
4 My contact with Dublin county councillors was very limited during my employment  
5 with the council. As my duties were more of a research nature, the matters I  
6 was dealing with were not matters which the councillors would have making  
7 representation on. I carried out development control duties only during  
8 periods when the person on development control at my grade was on leave, which  
9 would normally have been in the order of two to three weeks at a time.  
10 Accordingly, I had very little, if any, discussions or dealings with developers  
11 or others in meetings prior to or during the course of processing applications  
12 arising in those periods.

13  
14 I have only one record of a meeting with a councillor on council business  
15 matters. That was in April 1989 when Councillor Colin McGrath made  
16 representations to have the former flax oil mills at Fairview, Clondalkin  
17 listed for preservation. These were subsequently included in list 2, DP map  
18 No. 18, item no. 17 of the County Development Plan 1993.

19  
20 At the beginning of April 1993, I was allocated full-time duties on the  
21 preparation of an Environmental Impact Statement for the northern motorway --  
22 airport to Balbriggan bypass and I did not participate further in the  
23 Development Plan team, except perhaps finalising matters I had been working on.  
24 The plan was finally adopted by the council on the 10th December 1993 as the  
25 Dublin County Development Plan 1993.

26  
27 On the 1st January 1994, Dublin County Council was divided into the three  
28 councils of Dun Laoghaire/Rathdown, Fingal and South Dublin. I was allocated  
29 to a post in Dun Laoghaire/Rathdown but continued to work on the Northern  
30 Motorway Environment Impact Statement for Fingal County Council on a secondment

1 basis. I was also promoted to senior planner grade with Dun Laoghaire/Rathdown  
2 after interview in a closed competition process. On the completion of the EIS  
3 for the northern motorway, I returned to take up full-time duties in Dun  
4 Laoghaire/Rathdown.

5  
6 The task I was allocated there was the preparation of an Environmental Impact  
7 Statement from the Southeastern Motorway. This was a whole time duty and I  
8 normally only undertook duties outside that function when the county planning  
9 officer, Mr. Willie Murray, was away on leave or the other senior two planners,  
10 Mr. R. Cremins and Mr. C. Treacy, were both away. These other duties were  
11 mainly development control duties where planning applications had to be dealt  
12 with within time limits. I was not involved with the revision of the County  
13 Development Plan in that period. I think I attended only one meeting of the  
14 county council during my time in Dun Laoghaire/Rathdown County Council. As far  
15 as I recall, it was associated with the proposed Southeastern Motorway possible  
16 alternative routes.

17  
18 When any developments were proposed by the council or the public in proximity  
19 to the proposed motorway or which might affect it in any way, my professional  
20 planning views on the matter were normally sought. Even after the  
21 Environmental Impact Statement was published and up to the time I retired, I  
22 was consulted on these matters so I am not sure of the actual timing of the  
23 consultations, not directly affecting the layout of the proposed motorway and  
24 ancillary roads.

25  
26 The development proposals and inquiries, not arising directly from the  
27 council's consultants design proposals for the motorway that I recall were as  
28 follows:

29 A housing development application at Kellystown Road affected by the SCRM", is  
30 that the Southern Cross --

1 A Southern Cross Route motorway.

2 Q 13 "Two parcels of land between Killcross housing estate and the proposed  
3 Ballinteer interchange for which access was being sought to the roundabout of  
4 the Ballinteer interchange. (Ballyboden farms and Dywer Nolan Ltd). The  
5 additional access point to the roundabout would have interfered unduly with the  
6 traffic flows on the "green route interchange links". The land topography also  
7 proved to be too steep to enable a connection to be physically made.  
8 Alternative access off Blackglen Road was eventually agreed on. The central  
9 bank lands/the construction of the new boundary wall to take account of the CPO  
10 line of the Southern Cross Motorway and the added requirements of the  
11 Southeastern Motorway. The wall has now been constructed.

12 A planning application in the Holywell area beside the proposed Drumartin link.  
13 Layout of houses in the Gallops area consequent on a long standing outline  
14 permission.

15 The permission incorporated my requirements.

16

17 Consultations/negotiations with Dunloe Properties and William Neville and Sons  
18 Ltd on the lay out and development of the proposed Wyattville link road between  
19 the Laughaunstown interchange and Wyattville Road/N11 including the  
20 construction of the bridge access/Wyattville interchange component. This was  
21 partially resolved in the area of the interchange but access arrangements to  
22 the roundabout and the link remain unresolved.

23

24 Applications for houses by members of the Stephenson family on their own lands.  
25 Durkin estates had a planning application on lands between Brides Glen Road,  
26 Rathmichael Road and Mullinastill Road.

27

28 While I was aware of the design problems for the route through the lands of  
29 Jackson Way Properties, no representations have been made to me on the matter.  
30 These difficulties were especially one resulting from a registered but unmapped

1 right of way, approximately 60 feet wide, leading to the lands of O'Halloran,  
2 Kilcoyne and Darragh which required an under or overpass to the motorway.  
3 Provision for land drainage requirements were also an issue. These issues were  
4 also raised in the public inquiry.

5  
6 The motorway scheme was made and the Environmental Impact Statement published  
7 on the 24th September 1997. The public local inquiry took place from January  
8 21st and 28th, 1998.

9  
10 When I became aware of the zoning representations for the Jackson Way lands, I  
11 discussed the matter with the county planning officer, Mr. Willie Murray, and  
12 pointed out that the rezoning at this time was undesirable as it would increase  
13 costs for the motorway by reason of enhanced land cost and that the access  
14 arrangements proposed in the scheme were for agricultural purposes only, not  
15 for building development purposes. I am not sure at this time, almost five  
16 years later, if this was before or after the council meeting of the 16th  
17 December 1997. I do recall seeing a copy of the representations, but not the  
18 letters to the council comprising item 2 of your schedule attached to your  
19 letter to me dated 2nd August, 2002.

20  
21 And item 2 I think can be seen if we could have 2457, 2420 and 2431, please.  
22 The 16th December 1997 I think was the date, Mr. Gibson, of the motion to  
23 rezone the lands of Messrs. O'Halloran Darragh, Kilcoyne and that portion of  
24 the Jackson Way lands north of the proposed motorway, is that right?

25 A That's right.

26 Q 14 Again I am not sure whether it was before or after the council meeting of the  
27 16th December 1997. Item 7 of the schedule attached to your letter, that's  
28 item 7, the extracts of the minutes of the meeting of the 16th June 1998 which  
29 the amendments were considered, and that's to be found at 2549 of the brief.

1 Item 7 of the schedule attached to your letter clearly sets out that:

2 "The manager sought to have the rezoning decision reversed because it was  
3 premature until the Southeastern Motorway was in place etc. The subsequent  
4 motion proposed by Councillor Fitzgerald and seconded by Councillor Smyth  
5 ensured that the Southeastern Motorway would be developed before the industrial  
6 development. However the retention of the zoning change had the effect that  
7 under normal valuation procedures, half the proposed land take of the motorway  
8 corridor through this area would be valued at industrial land values and the  
9 other half at agricultural land values. The storm water retention area for the  
10 proposed motorway was, during the course of the public inquiry, reduced in size  
11 from that shown in the Environment Impact Statement on it. Some of it would  
12 still fall within the higher value area rezoned for industry. Therefore part  
13 of the lands to be acquired for the motorway would have an enhanced value in  
14 the areas in or contiguous to the areas rezoned for industry."

15  
16 You say, item 8 of your schedule, you don't seem to deal with that. You go on:  
17 "To the best of my knowledge, I have not seen items 3, 4 or 5."

18  
19 Item 3 was motions seen and extract of minutes at Dun Laoghaire/Rathdown county  
20 council at which the motions were considered. Item 4 was copy extracts of the  
21 minutes of the 5th January 1998 to be found at page 2430 of the brief. And  
22 item 5 were motions received re: Jackson Way lands and extract minutes of  
23 special meeting Dun Laoghaire/Rathdown County Council 21st January 1998 at  
24 which the motions were considered.

25  
26 You say that: "To the best of my knowledge I have not seen items 3, 4 or 5 in  
27 the schedule attached to your letter."

28  
29 Item number 6 which is a copy map of the 1998 amendments to the 1997  
30 Development Plan along with a schedule of map changes, which is at page 4183,

1 you would have been aware of, but not in that actual format. The line of the  
2 Southeastern Motorway was revised and the precise line was known after the  
3 motorway scheme was made.

4  
5 You say amendment number 9.5, 9.8, 11.1 and 11.2 and 11.3 were additional  
6 reservations to accommodate the slip roads to the interchanges at Carrickmines  
7 and Laughanstown.

8  
9 After the Southeastern Motorway public inquiry, I was allocated the duty of  
10 preparing an Action Area Plan for the Carrickmines to Laughanstown/Cherrywood  
11 area. While it was well advanced at the time I retired, the AAP was not  
12 published before I retired. At this time also, an Integrated Catchment Study  
13 was being undertaken by consultants MCOS & Company Ltd, consulting engineers,  
14 on the Carrickmines river through the study area. I was also on the  
15 coordinating committee for that, as it was relevant to the action plan. The  
16 Carrickmines sewer had been laid from the Shanganagh treatment works as far as  
17 the former pumping station at Merville on the Ballyogan Road. As it passed  
18 through the Action Area Plan lands, it made those lands riper for development.  
19 Water supply was still an issue, even though the water mains from Roundwood to  
20 Dublin passed through the area. Connections were not normally permitted to  
21 these mains because of their strategic importance to Dublin city.

22  
23 Public notices were made inviting public consultation in which I was named as a  
24 contact person." That's item 9 of your schedule, which is the public notice of  
25 proposed draft action area plan for Cherrywood at 2666 and 2667 of the brief.

26  
27 "As a result of those advertisements, I had meetings with a number of  
28 persons/groups. I had at least one other official with me when hearing the  
29 representations. As far as I recall, minutes were subsequently made of each of  
30 the meetings. These representation meetings were with the following: Brown

1 Brothers, Brian O'Halloran, J Ronan/Treasury Holdings, DEGW on behalf of Dunloe  
2 Ewart, Mr. B. Meehan, planning consultant on behalf of Mr. Seamus Neville, Mr.  
3 B. O'Halloran, Mr. Stevenson.

4  
5 Each made representations for the development of their respective landholdings  
6 within the area. They were also advised of the restraint likely to be  
7 encountered in each case and of the other public needs in so far as we knew  
8 them at the time. Dunloe Ewart and William Neville & Sons (Seamus Neville)  
9 were already developing lands within the study area. As far as I am aware,  
10 Brown Brothers had also carried out developments since then on some of their  
11 lands since their lands were not dependent on the spine road being considered  
12 to serve the main block of land.

13  
14 From a planning viewpoint, the spine road was considered necessary as the large  
15 area of land in different ownerships did not have suitable road access. No  
16 access would be permitted directly to the proposed Southeastern Motorway. The  
17 N11 (Bray Road) frontage was already developed and was separated from the  
18 undeveloped lands by the Carrickmines river valley. Tully Lane was a narrow  
19 winding road with steep gradient and acute bends and opened onto Brennanstown  
20 Road which was itself inadequate for large volumes of traffic and was narrow  
21 and with blind bends in places. The acute bend on Tully Lane nearest to  
22 Brennanstown Road was bounded on the inner side of the angle by a high stone  
23 wall of a property listed for preservation. A spine road could be developed  
24 through the development lands at the developer's expense which would have  
25 gradients within normal road standards and would have adequate capacity for the  
26 volumes of traffic likely to be generated by the future developments of the  
27 AAP.

28  
29 The spine road being considered then was to be single carriageway connecting  
30 the Carrickmines interchange roundabout with the Wyattville link road

1 roundabout. It was being proposed as a distributor type road from which road  
2 connections would be taken to service the various parcels of land in the area.

3  
4 Browns' lands would not have been serviced by this as it had access from the  
5 N11 via property which was proposed to demolish and from Tully Lane.

6  
7 The line of the former Harcourt Street railway was also being retained and new  
8 alignments proposed where the old alignment was no longer available to provide  
9 for an extension of the LUAS to Cherrywood. This was later extended to cross  
10 the Cherrywood viaduct to continue on the Shankill area. Two schools, a public  
11 library, a health centre, public car parking and a riverside linear park, a  
12 golf course were also being provided for as well as the retention of  
13 archeological features of the area. It was being considered at the time that  
14 the cost of the utilities and possibly the sites in the public facilities would  
15 be a charge on the developments. Treasury Holdings made a representation by a  
16 number of architects and planners of how they would propose to develop their  
17 lands and how they would connect the spine road and provide a station to the  
18 LUAS line if constructed. A number of those making representations suggested  
19 that they would be prepared to contribute jointly to the full cost of the LUAS  
20 extension to Cherrywood.

21  
22 The Stevenson family were concerned that the severed portion of their farm  
23 which was zoned for Science and Technology in the 1998 Development Plan, would  
24 have adequate road access for that purpose. Road access to that property was  
25 dependent on roads through Dunloe Ewart lands.

26  
27 A number of planning applications by Dunloe Ewart and the Nevilles in the south  
28 and southeast portion current and proposed in continuation of their existing  
29 development were also taken into account. The plan was not finalised before I  
30 retired on the 1st October 1999 and item 11 of your schedule appears subsequent

1 to that." That's a copy of the Draft Action Plan 2000 for Carrickmines  
2 Cherrywood to be found on page 2714 of the brief.

3  
4 "With regard to your letter dated 29th July 2002, I have written above an  
5 account of my role in the development plan review process. With regard to  
6 question 3(f) I am not aware if councillors or officials solicited, received or  
7 were offered money or other benefits in return for their support in a  
8 planning/development/review context. I was aware of the various allegations  
9 made in the media but I personally did not have any evidence of such things  
10 taking place. I can confirm that I myself did not solicit or receive nor was I  
11 offered money or other benefits in return for support in such matters.

12  
13 On question 4, I did not have any representations made to me other than the  
14 formal official written or oral representations provided for under the planning  
15 acts and the formal representations in conjunction with the  
16 Carrickmines/Cherrywood Area Action Plan. I would have had however had  
17 discussions with architects, planners, engineers and developers proposing to  
18 submit planning applications who wished to know what planning and servicing  
19 restrictions apply to their proposed sites. Those discussions would of  
20 necessity have elicited what they were proposing so that I could define the  
21 requirements which I thought necessary. Those proposals would then have been  
22 subsequently dealt with by planning application.

23  
24 I also wish to record that to my knowledge I have never met or spoke to Frank  
25 Dunlop.

26  
27 With regard to your letter of the 2nd August 2002, and additional to what I  
28 have stated above, I have no knowledge or idea as to who the beneficial owners  
29 of the lands held by Jackson Way Properties Ltd are nor of anyone involved with  
30 the company." That's your statement dated 24th August 2002, isn't that right?

1 A That's correct, yes.

2 Q 15 I think you also supplied a statement to the Tribunal dated the 11th November  
3 2002, again I just propose to go through that. Do you have a copy of that  
4 statement?

5 A I have, yes.

6 Q 16 You say:

7 "I refer to your letter of the 24th October 2002 seeking a narrative statement  
8 from me setting out any involvement direct or indirect that I may have had with  
9 these lands. The lands referred to in the map attached to your letter are  
10 those of Carrickmines Great inlined in red. These are lands which were listed.  
11 Paragraph 16.5.3 and mapped. Figure 16(c) in the EIS of the Southeastern  
12 Motorway as being agricultural properties in the ownership of (plot numbers 35)  
13 Jackson Way Properties, (Plot 36), Brian O'Halloran (and plot numbers 37, 38,  
14 39 and 40), Austin Darragh personal representatives of Marie Therese Darragh,  
15 Gerard and Valerie Kilcoyne. Please note that I also refer to these matters in  
16 my statement of the 24th August 2002."

17 That's the statement I just read.

18

19 "The first time I had a planning assignment which, inter alia, involved the  
20 subject lands was during the period I was working for the Eastern Regional  
21 Development Organisation (ERDO) on the Eastern Regional Settlement Strategy  
22 2011. The study team had been advised by Dublin Corporation and County Council  
23 of all the areas where water and sewage services were available or were capable  
24 of being made available. One of the areas was what was known as the Shanganagh  
25 area. A sea outfall for sewage discharge had been constructed at Shanganagh.  
26 As far as I recollect it had a capacity provision included of 40,000 person  
27 equivalent which was to cater for Bray UDC. However had Bray subsequently  
28 decided to provide it's system so there was additional capacity available to  
29 Dublin county over and above that originally included in the design. From the  
30 ERDO report this appears to have been adequate to cater for about 27,000

1 population. The tasks I and one or two of my other colleagues were given was  
2 to identify suitable lands to ascertain if that extra population could  
3 physically be accommodated. We determined that the population could be  
4 accommodated on the areas of Carrickmines Valley and Brides Glen Valley. The  
5 Western boundary to the area was determined as the Enniskerry Road and  
6 Barnaslingan Lane. Areas of high quality amenity or excessive prominence or  
7 excessive slopes were excluded ie the high ground south of Glenamuck Road and  
8 the Ticnick area between the two valleys. The area identified as being  
9 suitable would have included the O'Halloran and Darragh lands and the flatter  
10 areas of the Jackson Way lands. Other than a general statement of the capacity  
11 of the area, these surveys were not made public and were only indicated  
12 diagrammatically, in the report, on an A4 map for the entire region -- copy  
13 enclosed."

14 If we could have 4216 please.

15 "The purpose of survey was to ensure that the Settlement Strategy was sound and  
16 could be defended if necessary. In the event, ERDO was abolished around the  
17 same time as the report was published.

18  
19 To the best of my recollection I was not involved in the preparation of the  
20 comprehensive plan for the area presented to the council on the 18th October  
21 1990 as set out folder 1 pages 199 to 206. I would have been aware that it was  
22 being prepared in the planning department it was engaged in other work on the  
23 neighbourhood study and the listing of features of architectural and  
24 archeological importance."

25 I think that's the report which was encompassed in the map DP 90/123 presented  
26 by the manager in October, November 1990

27 A Yes, that's correct.

28 Q 17 "To the best of my knowledge I had no involvement in these lands in either the  
29 1991 Draft Plan or the 1993 Development Plan. I note from the Tribunal's brief  
30 pages reference 1385/1386 that Mr. Brendan Wyse was the planner to whom the

1 statutory representations were made in relation to the lands of O'Halloran,  
2 Kilcoyne and Darragh, and on page 1394, the late Mr. Neville Davin was the  
3 planner to whom statutory representations were made on behalf of Paisley Park  
4 Investments Ltd. As far as I recall the normal procedure was that it was the  
5 same planner who took the oral hearing on a representation that also did the  
6 written report and recommendation on that representation to the manager.

7  
8 My first close involvement with these lands was during the preparation of the  
9 Environmental Impact Statement for the Southeastern Motorway. I personally did  
10 not meet or have any contact with the people involved with these three plots of  
11 lands. I was aware that representations had been made about access to the  
12 proposed motorway system and efforts being made to have access provided to  
13 these various lands in excess of their existing use requirements. Access for  
14 existing use only was provided for in the Compulsory Purchase Order documents  
15 and in the Environment Impact Statement. Copy of the relevant page of the  
16 Environmental Impact Statement enclosed together with the map showing the  
17 properties I was involved with the EIS preparation from about April 1995 to  
18 December 1997 and until after the public inquiry in January, 1998. During the  
19 remainder of 1998 I was mainly involved in an attempt to do a separate EIS for  
20 the N11 Improvement?Wyattville Link to overcome possible challenge/delay to the  
21 Southeastern Motorway. There was also ongoing work from time to time on the  
22 motorway scheme. I was also involved in liaison for the Planning Department on  
23 the Integrated Catchment Plan being prepared by MC O'Sullivan & Co, Consulting  
24 Engineers, which included inter alia the Carrickmines River Catchment  
25 encompassing these lands. This did not involve my meeting any members of the  
26 public or landowners involved in these lands.

27  
28 I do not have a record of when I commenced work on the preparation of the  
29 Action Area Plan for Carrickmines/Cherrywood. The first reference I can locate  
30 in my desk diary is on the 26th January 1999. I had a meeting with Mr. Willie

1 Murray, Co. Planning Officer with regard to the 'Cherrywood Action Plan'. This  
2 was probably at the commencement of my work on that task. I was still very  
3 much involved in work on the N11 as well as on both the SE Motorway and the  
4 Northern Motorway (Fingal) as litigation was threatened on both of these  
5 motorway situation. Part of the Wyattville interchange of the SEM was also  
6 under construction by Dunloe Ewart/Neville & Sons providing access to their  
7 development areas in Loughlinstown/Cherrywood. I had a planning role in  
8 ensuring the planning Environmental Impact Statement requirements would be  
9 complied with. In view of the ongoing developments in the Cherrywood area much  
10 of my time was concentrated on the AAP area. That's the action area plan area.

11  
12 "The Action Plan which I was required to produce was to be a plan showing how  
13 developments could be carried out in the area in conformity with the zoning and  
14 other requirements of the County Development Plan 1998, and meeting the  
15 requirements and needs of other public bodies which the development of the area  
16 would generate. It was also to take into account the possible extension of  
17 LUAS along the disused Harcourt Street line as far as Cherrywood which was to  
18 be the terminus of the park and ride system as well as the major road needs of  
19 the development. Part of the old Harcourt Street line had been built over with  
20 extensions to the former Crossing Keepers Cottage on Tully Lane and another  
21 more recent dwelling nearby and needed a revision of the line to avoid these  
22 developments.

23  
24 I had the assistance of Ms. Maeve Barrett SEP full-time and Mr. Liam Walsh, AP  
25 part-time as well as the drafting facilities from the planning drawing office.  
26 While I initially carried out a visual survey of the area in early February  
27 1999, I was on annual leave for the remainder of the month. On return in March  
28 I continued work on the Action Area Plan with Miss Barrett. We determined the  
29 needs of the district centre, etc, that is commercial, schools, library, health  
30 care, carpark etc. It was also to take into account facilities and services

1 which were available in the surrounding area. The requirements of Duchas in  
2 relation to the Tully church and Laughanstown Cairn as well as other  
3 archeological and heritage requirements were determined and provided for. A  
4 spine road system was designed to provide access to the area. A linear park  
5 system along the Carrickmines river valley was mapped out to ensure public  
6 access to the amenity and to ensure the maintenance of flood plains to meet the  
7 requirements of the integrated catchment plan. This also had to be continuous  
8 to provide a long distance walk throughout the full length of the area to give  
9 continuity to the plan of a walk way for the length of the river. The golf  
10 course proposal was also to be retained in the Action Area Plan and access to  
11 be provided to it.

12  
13 The only existing road system into the area was the Tully/Laughanstown Lane  
14 Brennanstown Road. The inner end of this road connected to Heronsford land off  
15 Brides Glen Road. All those roads are very deficient in width and alignment  
16 and could not be readily or feasibly improved to provide an adequate and safe  
17 service to the area. The road access which was decided on was a spine road  
18 connecting the roundabout on the Wyattville link, which was by then already  
19 partly available, and the proposed eastern roundabout on the Southeastern  
20 Motorway interchange at Carrickmines. This also respected the hierarchy of  
21 roads and junctions which could give good access to the area.

22  
23 In the areas of the Darragh, O'Halloran and Kilcoyne lands, the alignment of  
24 the spine road was kept along the south edge of the flood attenuation area  
25 required for the Southeastern Motorway and more or less parallel to the river  
26 channel so as to provide the park continuity area beside the river. This was  
27 also to preserve the amenity of the trees on the riverbank and to avoid the  
28 likelihood of those trees falling on to the road. At its western end the  
29 alignment was then altered to provide a suitable connection alignment to the  
30 roundabout while avoiding the house, Priorsland, which was listed for

1 preservation. Much of the Carrickmines sewer wayleave in this area would also  
2 have coincided with the proposed road line. I have entries in my diary that  
3 the proposed Action Plan was to be completed for circulation to the councillors  
4 by the 30th April and that they were to meet to discuss it on the 10th May  
5 1999. As far as I recall, this was done and as a consequence the public  
6 notices were placed in the newspapers on the 14th May.

7  
8 These notices named me as a contact person for anyone making representations on  
9 the AAP. Subsequent to this Mr. Brian Meehan and Mr. Brian O'Halloran came to  
10 my office by appointment on the 17th June 1999 and met myself and Miss Barrett.  
11 As far as I recall Mr. O'Halloran's concern was to ensure that the spine road  
12 we were proposing would provide access for the lands of himself and his  
13 co-owners. I explained that as the proposed road would be of a high standard  
14 it would have a limited number of access points to it. Therefore it would be  
15 up to him and his neighbours to get together and organise the internal road  
16 systems of their lands to connect to the proposed spine road at the locations  
17 specified. As far as I recall I also pointed out that the spine road would be  
18 either constructed by the land developers themselves or by way of levy on the  
19 land developments.

20  
21 I think he may have also mentioned the flood attenuation area. As far as I was  
22 concerned that was a matter that was determined by the Compulsory Purchase  
23 Order and warranted no further discussion other than it be retained as finally  
24 determined for the CPO. I may have also indicated that any developments of the  
25 lands would also have to provide flood attenuation measures so that those  
26 developments would not also be a cause of down stream flooding. As far as I  
27 can recall Miss Barrett wrote up a minute of the discussion after the meeting  
28 which should be on the council files relating to the Action Area Plan.

29  
30 As far as I can recall, that was the only meeting or direct contact I had with

1 Mr. O'Halloran.

2

3 I had no meeting or contact with either Dr. Darragh or Mr. Kilcoyne.

4

5 I continued to work on the Action Area Plan from then until the 13th September  
6 when I went on the balance of my annual leave. I did not return to work again  
7 prior to my retirement on reaching the age limit on the 1st October 1999. The  
8 Action Area Plan was unfinished at the time of my departure from the council.

9 To the best of my knowledge there were no material changes of the AAP for this  
10 part of the area from that which I had already developed up to the date of that  
11 meeting with Mr. O'Halloran during my remaining time working for the council."

12

13 You dated that the 11th November 2002. That is your evidence in relation to  
14 your involvement with the review of the both the '83 and '97 Development Plans.

15 A Yes, that's right.

16 Q 18 Thank you very much.

17

18 CHAIRMAN: Is there anyone wishing to ask this witness any questions? Thank  
19 you very much for attending to give evidence.

20 A Thank you.

21

22 THE WITNESS THEN WITHDREW

23

24 MR. QUINN: We have other witnesses.

25

26 CHAIRMAN: We'll take a break for about ten minutes.

27

28 THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK AND RESUMED

29 AS FOLLOWS:

30

1 MR. QUINN: Mr. Doran, please.

2

3

4 MR. EUGENE DORAN, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS

5 BY MR. QUINN:

6

7 CHAIRMAN: Sit down, Mr. Doran, thank you.

8

9 Q 19 MR. QUINN: Good afternoon, Mr. Doran, I think you are a senior executive  
10 engineer with Dun Laoghaire/Rathdown County Council.

11 A Correct.

12 Q 20 And you are attached to the water services, is that right, and you were asked  
13 for a statement by the Tribunal, isn't that right?

14 A That's correct.

15 Q 21 And I think you have supplied a statement to the Tribunal dated the 30th April  
16 of this year, isn't that right?

17 A That is correct.

18 Q 22 I propose to read the statement and just the accompanying documentation and ask  
19 you to confirm that it's your evidence.

20

21 You say under the heading the Sandyford High Level Water Supply Scheme you say:  
22 "I joined Dun Laoghaire/Rathdown County Council in December 1995 and was  
23 appointed as executive engineer in the water design section. In January 1996,  
24 my supervisor, Terence W. Rice, senior executive engineer, requested me to  
25 carry out a technical reevaluation of a proposed water supply scheme known as  
26 the Sandyford High Level Scheme. I was asked, in particular, to exam the  
27 consequences of supplying water to the scheme from Stillorgan rather than  
28 Ballyboden/Woodtown reservoirs.

29

30 The previous version of the scheme had been prepared by Pat Cronin, executive

1 engineer in 1994. A copy of the preliminary report for the December 1994 is  
2 enclosed."

3 And I think we see that at page 4697 of the brief. It's a revised report of  
4 December 1994, isn't that right? 4697.

5 A That's correct, that's not what's on the screen at the moment.

6 Q 23 If we call up 4698.

7 A That's the 1994 report.

8 Q 24 That's what you are referring to here, is that right?

9 A That's correct.

10 Q 25 "I understand that two previous scheme reports which had been submitted to the  
11 department as the water supply network of the area was deficient in a number of  
12 respects.

13

14 In addition to remedying deficiencies in the existing water supply system, the  
15 1994 scheme aimed to quantify anticipated demands resulting from zoning changes  
16 in the 1993 County Development Plan and to ensure an adequate water supply for  
17 both existing and proposed demands.

18

19 The technical evaluation I undertook resulted in two significant alterations to  
20 the 1994 scheme:

21 The scheme would be supplied from Stillorgan reservoir instead of

22 Ballyboden/Woodtown.

23

24 Instead of a single 10,000 cubic metre reservoir at Barnacullia, there would be  
25 two reservoirs; an upper 4,000 cubic metre reservoir at Barnacullia and a lower  
26 7,500 cubic metre reservoir at Dun Gaoithe just to the south of Hillcrest Road.

27

28 The extent of the development to be serviced by the scheme remained unaltered;  
29 the additional reservoir storage capacity (11,500 versus 10,000 cubic metre)  
30 was to increase security of supply.

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30

A revised preliminary report was submitted to the Department of Environment Local Government (DOELG) in April 1997. A further revised report was submitted in June 1997 incorporating minor technical changes. A copy of the June 1997 preliminary report is enclosed."

I think we see that at 4709.

"Five copies of associated drawing number 9401/105 of February 1997, entitled 'Development Plan Zonings and Housing Densities' have already been provided to the Tribunal."

I think that might be 9401/101 and we can see that at document 5037.

You go on to say:

"In January 1998, the DOELG approved the council to prepare contract documents in accordance with the preliminary report. Consulting Engineers, MC O'Sullivan, were appointed in October 1998, and in accordance with the consultant's brief (copy attached), they prepared a Design Review Report in July 1999."

And if we could have 4724 on the consultant's brief.

"The principal differences in the Revised Design proposed by the consultants were:

1. A reassessment of the increased future water demand due to additional areas zoned in the 1998 County Development Plan and to probable increased housing densities following government guidelines, estimated future daily demand at 10,500 cubic metres rather than the 8,000 cubic metre originally considered. As a result, reservoir sizes were increased to 6,000 cubic metres (upper reservoir) and 10,000 cubic metres (lower reservoir) and pump sizes were increased. As the newly zoned areas were within the geographical area to be supplied by the 1997 scheme, no significant alterations of watermain network

1 was required. Ten copies of drawing number 'figure 2.1' titled 'Supply Areas'  
2 taken from the reports have already been submitted to the Tribunal.

3  
4 In a recent interview with Mr. John Gallagher for the Tribunal, I was asked if  
5 this scheme covered lands known as the Jackson Way lands; the scheme did not  
6 envisage a supply for development of these lands.

7  
8 2. The location of the upper reservoir was changed from Barnacullia to Burrow  
9 Road. This was seen to enable easier reservoir construction and mains-laying,  
10 to remove the reservoir closer to the supply area and to reduce anticipated  
11 land acquisition difficulties.

12  
13 In spring 2000, the requirements of Part 10 of the 1994 Planning Act were  
14 complied with and Dun Laoghaire/Rathdown County Council approved the scheme  
15 under the Planning Acts and the 1955 City and County Management (Amendment) Act  
16 on the 8th May 2000."

17  
18 Could I just ask you there to explain the reference to "Part 10 of the 1994  
19 Planning Act"?

20 A As I understand it, it's a requirement of the local authority when carrying out  
21 certain constructions to go through a kind of a similar thing to the planning  
22 process themselves.

23 Q 26 Consultative process, is that correct?

24 A It involves putting the scheme on public display and then putting it to the  
25 council for planning.

26 Q 27 Is this a prerequisite of any development on the Sandyford scheme?

27 A It would be, yes.

28 Q 28 And I think that was done in spring of 2000?

29 A That's correct.

30 Q 29 You go on to say:

1 "In a letter of the 16th May 2000, the department approved an estimated cost of  
2 8,301,000 pounds for the construction phase of the scheme."

3 So that approval for the financing of the scheme was made I think on the 16th  
4 May, is that right?

5 A That's correct, 2000.

6 Q 30 "Tender documents been largely completed for sometime. However, the scheme has  
7 not yet gone to tender, primarily due to delays encountered in acquisition of  
8 reservoir and pumping station site and wayleaves. Acquisition of the Burrow  
9 Road site under the Compulsory Purchase Order has recently been completed.  
10 Negotiations for acquisitions of the remaining elements, including negotiations  
11 with LUAS in relation to the pumping station at Stillorgan reservoir are at an  
12 advanced stage and are expected to conclude shortly.

13  
14 At this stage, it's difficult to estimate what the future programme for the  
15 scheme will be; there are many factors which could influence it. In a recent  
16 interview with Mr. John Gallagher for the Tribunal, I estimated that, if the  
17 necessary acquisitions are completed by the 1st June 2003, a contractor might  
18 commence in January 2004."

19  
20 Have the necessary acquisitions been completed as of September 2003?

21 A No. They are not yet complete as I understand it.

22 Q 31 When do you expect them to be?

23 A I don't know the revised date. There's been a lot of slippage on it. I don't  
24 have a date for completion at the moment.

25 Q 32 If they were to be complete, for example, by January 2004, when would you  
26 expect the contract to commence?

27 A This is a guess now, but I would imagine about three and a half years after the  
28 completion of the acquisitions.

29 Q 33 That would be May 2007?

30 A May, 2007. That's a guess.

1 Q 34 You go on to say:

2 "Thereafter construction might take around three years as there's considerable  
3 construction work, including the Southeastern Motorway in the area. Overall  
4 completion of the scheme might take three and a half years from the date of  
5 going to tender. I believe it unlikely the scheme could be completed much  
6 before January 2007."

7 And now you tell us it's more likely to be May 2007 and probably later, is that  
8 correct?

9 A That's my guess on it, yes.

10 Q 35 "In the meantime a set of new pumps was installed beside the existing Sandyford  
11 reservoir. This was to enable development to progress in the supply area of  
12 the Sandyford High Level Scheme in advance of the completion of that scheme,  
13 then anticipated to be 2003. This is seen by the Water Department as an  
14 interim, if not wholly satisfactory, arrangement but was a response to a  
15 widespread desire to facilitate development, especially residential  
16 development. This interim solution would not be capable of supplying the full  
17 extent of the scheme. Depending on the nature and location, the extent of new  
18 development being limited by the extraction rate permitted by Dublin City  
19 Council at Ballyboden, the capacity of the trunk remains, the capacity of the  
20 pumps or the capacity of local distribution mains. A further analysis of the  
21 limits has not been carried out but there is unlikely to be a constraint if  
22 Sandyford High Level Scheme is completed over the coming, say, five years.

23

24 Under the heading: Water supply in Dublin region you say the following:

25 "The general water supply situation in the Dublin region is quite critical, in  
26 terms of supply to security, there is no spare capacity. An unfavourable  
27 combination of problems, for instance, technical difficulties at treatment  
28 plants, water mains bursts due to frost action or other causes, algal blooms  
29 and abstraction reservoirs etc -- would cause acute water shortages in the  
30 region. A regional group, led by the Dublin City Council, is examining long

1 and short term solutions to this issue.

2

3 I believe that this situation is widely known in planning circles but has not,  
4 to date, seemed to directly influence approvals for further development. Most,  
5 or all, planning reports by the Water Section in Dun Laoghaire/Rathdown County  
6 Council are prefaced by, "The proposed development will have a detrimental  
7 effect on the already critical water supply in the Dublin region. The  
8 council's water section cannot issue a favourable report in these  
9 circumstances" and this has been the practice since at least 1995."

10

11 You go on to say: "That since 1998, the Dublin Regional Water Conservation  
12 Project has substantially reduced leakage in the region. Much of the new  
13 development that has taken place since 1998 could not otherwise have been  
14 undertaken without causing severe water supply difficulties."

15

16 You say the following, "Lands zoned for development in Cherrywood and lying to  
17 the northeast of the proposed Southeastern Motorway are not within the  
18 Sandyford High Level Scheme supply area. A Draft Action Plan for the  
19 Cherrywood area was produced in 2000."

20

21 You have heard the evidence of the previous witness in relation to that, is  
22 that right?

23 A That's correct.

24 Q 36 "I believe copies of this Action Plan have previously been provided to the  
25 Tribunal; with this documentation I enclose a photocopy of two pages, paragraph  
26 11.1 to 11.3 and figure 11."

27

28 If we just briefly look at page 4735, please. I think that sets out the  
29 sections of the Action Plan that you are referring to, isn't that right?

30 A That's correct.

1 Q 37 And then there's a map, I think, figure 11, which is at 4736 and that sets out  
2 the area encompassed by that Action Plan, is that right?

3 A That's correct.

4 Q 38 You say:

5 "That the source of water for these zoned lands is the Rathmichael reservoir.  
6 At the time of the report there were circa 2,500 cubic metres per day spare  
7 capacity at this reservoir. Future demand resulting from development under the  
8 Action Plan was expected to be 3,000 to 4,000 cubic metres a day. Additional  
9 water infrastructure would, therefore, be required in the future, possibly  
10 including a reservoir on the high ground to the southeast of the proposed  
11 motorway. To the best of my knowledge, no further reassessment of the water  
12 supply situation has been undertaken since the Draft Action Plan was  
13 undertaken."

14

15 If we could have page 5037 again, please. This is the map of the Sandyford  
16 High Level Scheme, isn't that right? Just on the screen now.

17 A That's correct.

18 Q 39 If I could just ask you, you see the colouring on the map, I take it that the  
19 areas coloured in on the map are areas to be serviced by the scheme, is that  
20 correct?

21 A That's correct, yes.

22 Q 40 Now, if we look at an area here to the right of the map and where my pointer is  
23 going, we see first of all the proposed motorway line, is that right?

24 A That's correct.

25 Q 41 And if we look at this area here, that's the area I think of the lands and the  
26 Paisley Park lands and the lands the, property of Messrs. O'Halloran, Kilcoyne  
27 Darragh, is that right, the lands north of the motorway, these are the Paisley  
28 Park lands south of the south of the motorway?

29 A Mmm.

30 Q 42 Is that correct?

1 A I understand that to be the case.

2 Q 43 And neither of those lands appear to be in the coloured area and, therefore,  
3 neither of the lands are within the Sandyford High Level Water Scheme?

4 A That's correct.

5 Q 44 A scheme which will in any event not be constructed until sometime after 2007?

6 A That's correct.

7 Q 45 But they are possibly within the Cherrywood Action Area Plan?

8 A The lands northeast of the motorway would have formed part of the Cherrywood  
9 Action Plan, I think, the one southwest of the motorway would not have.

10 Q 46 Yes. These -- the lands southwest of the motorway are the balance of the  
11 Paisley Park, the Jackson Way lands, is that right?

12 A That's what I understand to be that area, yes.

13 Q 47 And the lands north of the motorway are the lands that were rezoned in December  
14 1997, is that right?

15 A I believe so. I believe they were part of the Carrickmines.

16 Q 48 Part of --

17 A Of the, sorry, Cherrywood Action Plan for which the report that was mentioned  
18 there was prepared. Yes.

19 Q 49 So in in December 1997, it wasn't even envisaged that those lands would be part  
20 of a future Sandyford high Level Water Supply Scheme, isn't that right?

21 A That's correct.

22 Q 50 And even now I think that only the lands that had been rezoned are part of the  
23 Action Plan, there's no proposals in relation to supplying water or supplying  
24 any water to the remainder?

25 A That's correct, there is no proposal at the moment.

26 Q 51 You say:

27 "The Carrickmines sewer: I have had no involvement with the Carrickmines sewer  
28 nor have I any expertise in drainage systems. To my knowledge, the following  
29 staff of Dun Laoghaire/Rathdown County Council would be involved in the  
30 Carrickmines sewer."

1 You name Mr. Phillips, Mr. O'Brien and Mr. Daly as being people involved in  
2 that regard, isn't that right?

3 A That's correct.

4 Q 52 Is that your evidence, Mr. Doran, in relation to this issue?

5 A That's my evidence, yes.

6 Q 53 Thank you very much.

7

8 CHAIRMAN: Thank you very much, Mr. Doran, for attending.

9

10 THE WITNESS THEN WITHDREW

11

12 MR. QUINN: I don't know if Mr. John Ahern has arrived. We are expecting  
13 Mr. Ahern. I understand he is en route.

14

15 CHAIRMAN: All right. Well, would you prefer to --

16

17 MR. QUINN: I understand he should be here within the next five minutes or so.

18

19 CHAIRMAN: All right. What we'll do is we'll rise for a few minutes, if he  
20 doesn't turn up we'll maybe sit again at half one. We can make a decision in a  
21 few minutes.

22

23

24 THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK AND RESUMED

25 AS FOLLOWS:

26

27 MR. QUINN: Now, Mr. Ahern, please.

28

29 MR. KIERNAN: Mr. Chairman, I appear for Mr. Ahern, I would just like to  
30 apologise for the delay.

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CHAIRMAN: That's all right. Thank you.

MR. AHERN, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS  
BY MR. QUINN:

CHAIRMAN: Sit down.

Q 54 Thank you, Mr. Ahern. Mr. Ahern, you have supplied a statement to the Tribunal, isn't that right, and I propose to read that statement and to ask you some questions arising from it.

A Yes.

Q 55 You say you are John Ahern of 3 Rhone Park Avenue, Blackrock and you say as follows:

"1. In 1996 I was Deputy Manager with AIB branch of 5 College Street, Dublin where Mr. Frank Dunlop operated a number of banks accounts."

Paragraph 2: You had a meeting with Frank Dunlop in relation to those accounts maintained at AIB and you prepared on the 3rd October 1996 a file note for internal bank use which updated your understanding of Mr. Dunlop's investments and worth at that time. You go on to say:

"I say that under the heading 'Investment deals In Course' I recorded the following information which was given to me by Mr. Dunlop on that meeting."  
I wonder could we have page 5040.

Your note records the following:

"One hundred acres at Carrickmines - new motorway to bisect the land - sewage and water already in place together with impending road network - land acquired by Jackson Way Properties and Frank Dunlop engaged by Miley & Miley, Solicitors to have land rezoned for industrial usage with the purpose of developing a business development park - rezoning should be in place in one year giving a

1 return of 250,000 Irish pounds."

2

3 You go on to say:

4 "It was my understanding from my conversation with Mr. Dunlop at this at this  
5 time, namely October 1996 that he was going to receive by way of fee income  
6 from the owners of the lands at Carrickmines, the sum of 250,000 Irish pounds  
7 for his efforts in having these lands rezoned for industrial use so that a  
8 business park could be developed on this site."

9 Is that your evidence, Mr. Ahern?

10 A Yes, that is my understanding of the position.

11 Q 56 That was information given to you at a meeting, I think, on the 3rd October  
12 1996 with Mr. Dunlop?

13 A That was at -- it was recorded under the date, the 3rd October by way of  
14 application for facilities at the time. And it was an item overtured to me as  
15 the source of income to Mr. Dunlop.

16 Q 57 It was one of the items --

17 A It would be one, it would be one of a number. Yeah.

18 Q 58 Thank you very much. Mr. Ahern.

19 CHAIRMAN: That's fine, thank you very much, Mr. Ahern for attending. You are  
20 free to go. Thank you.

21

22 MR. QUINN: It was also intended to have one further witness this afternoon,  
23 Mr. Rabbitte, who is unfortunately unavailable. And whilst it was intended to  
24 have other witnesses both today and tomorrow, for one reason or another it's  
25 not been possible to have those witnesses in attendance, so in the  
26 circumstances I would ask that the Tribunal adjourn until the 7th October,  
27 there are works to be carried out.

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29 CHAIRMAN: All right, we'll adjourn then until half ten on Tuesday, the 7th  
30 October.

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MR. QUINN: Thank you.

CHAIRMAN: Thank you.

THE TRIBUNAL THEN ADJOURNED UNTIL TUESDAY, 7TH OCTOBER 2003

AT 10.30 AM

