



# LEGISLATIVE ASSEMBLY

FOR THE AUSTRALIAN CAPITAL TERRITORY

## STANDING COMMITTEE ON PLANNING, TRANSPORT AND CITY SERVICES

Jo Clay MLA (Chair), Suzanne Orr MLA (Deputy), Mark Parton MLA

### Questions Taken on Notice – PTCS Inquiry into Giralang shops

<i>No.</i>	<i>Hearing date</i>	<i>Asked by</i>	<i>Subject</i>	<i>Directed to / Taken by</i>	<i>Transcript Page No.</i>	<i>Forwarded to witness</i>	<i>Answered Date</i>	
1	27/05/21	Ms Orr MLA	<p>MS ORR: But the question still stands, did you make any commitments on the supermarket's size in the legal action that you settled?</p> <p>Mr Nikias: Yes, yes, I have, yes.</p> <p>MS ORR: Yes, you have. Are you able to tell us what they are?</p> <p>Mr Nikias: No, unfortunately I am not allowed to.</p> <p>MS ORR: Okay. Do you have a deed of settlement with the other—</p> <p>Mr Nikias: I do.</p> <p>MS ORR: Yes, can you provide that to the committee in confidence?</p>	Mr Dimitri Nikias, Director, Nikias Diamond / Nikias Properties	UPT pp.10-11.			The deed of settlement is a private document and the parties to it are bound by obligations of confidentiality. Giralang Property Pty Limited is not in position to make that document available to the Committee.

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			<p>Mr Nikias: I would have to get—well I would have to get legal advice first to do that. So I don't know how—</p> <p>MS ORR: So you can provide documents to the committee in confidence, that is a power that we have.</p> <p>Mr Nikias: As long as our solicitor—</p> <p>MS ORR: We will not be publishing those documents, so you will provide a copy of that deed to the committee.</p> <p>Mr Nikias: Well all I can say Susan is that I will legal advice if that is appropriate and then I am able to do that. So I will take it on notice.</p>					
2	27/05/21	Ms Orr MLA	MS ORR: Okay, great, can you provide a copy of the extension request to the committee?	Mr Dimitri Nikias, Director, Nikias Diamond / Nikias Properties	UPT p.15.			Attached is a copy of the EPSDD approval for an extension to the date to commence construction under the approved development application. Approval has been given for the approved works to commence by 24 July 2023.
3	27/05/21	Ms Orr MLA	MS ORR: Okay, so what fees are you paying on the site, rates?	Mr Dimitri Nikias, Director,	UPT p.16.			Attached are copies of the property's rates notices for the current financial year.

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			<p>Mr Nikias: I cannot tell you that, I do not know that answer.</p> <p>MS ORR: Can you provide it to the committee on notice?</p> <p>Mr Nikias: Sure, sure, yes.</p>	Nikias Diamond / Nikias Properties				
4	27/05/21	Ms Orr MLA	<p>MS ORR: Thank you. Mr Nikias, what is the current approved completion date for the development?</p> <p>Mr Nikias: I do not know that too off the top of my head.</p> <p>MS ORR: Can you provide that to the committee?</p> <p>Mr Nikias: I certainly can.</p>	Mr Dimitri Nikias, Director, Nikias Diamond / Nikias Properties	UPT p.16.			<p>The crown lease for the property provides that the lessee will complete an approved development by 11 March 2017 or such further time as approved by the Authority. Section 298B(2) of the Planning and Development Act 2007 extends the time to complete works under a crown lease indefinitely. This indefinite extension continues unless the Planning and Land Authority extends the date to another stated time or refuse to extend the times to complete the works.</p> <p>The development approval does not contain a date by which the development must be completed. However, the development approval does require that the works commence by 24 July 2023 (being the extended date as approved by the Authority).</p>

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5	27/05/21	Ms Orr MLA	<p>MS ORR: I actually—look, I have got one more question. I think we have sort of touched on this. But Mr Nikias, given it has been 20 years, at what point do you say you have done what you can and give someone else a go?</p> <p>Mr Nikias: I will take that on notice too.</p>	Mr Dimitri Nikias, Director, Nikias Diamond / Nikias Properties	UPT p.37.			<p>We are the original and only owners of the site. We have a long commitment to the area and we remain fully committed to delivering a commercially viable shopping centre for Giralang. We had an approved development application with a signed agreement from Woolworths and commenced building in 2011 – only to be stopped by the commencement of legal proceedings by development objectors who took us to the High Court. Since then we have spent \$4-5 million defending our right to build a viable supermarket on the site in the face of relentless legal action against us. The legal challenge was based on an argument around an error in the approval decision of the approving authority. The market pressures which made a 1000 sqm supermarket unviable (following the ACT Government’s restrictions) would be the same for anyone who had the site. This has been the experience also with other local centres around Canberra. The ACT Government’s change in policy in May this year to allow 1500 sqm supermarkets for local centres (at present on a basis that has only interim effect) has shifted the goalposts again but for the better and we</p>

