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PATRICIA McDONALD SC
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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 18 APRIL, 2018

AT 2.00PM

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THE COMMISSIONER: Mr Buchanan.

MR BUCHANAN: Thank you, Commissioner.

Mr Khouri, you spoke about Mr Montague in the evidence you gave this morning. How long had you known Mr Montague as at 2014?---I'd say '85,
10 '86, 1985, '86.

Could you just keep your voice up a little bit?---Yeah, sorry.

MR STANTON: Has he got a glass of water there?---Yeah, there's a glass of water here.

THE WITNESS: Since '85/'86.

MR BUCHANAN: And what was the nature of your relationship to him in
20 the period 2014/2016?---Ah, we, we become good friend and we maintain our social interaction. He knows my family, I know his, I know his, and we catch up from time to time on a social basis.

And that had been the situation for a long time?---Yes.

In all of that time he was either town clerk or after that, general manager of Canterbury?---Yes.

Did he seek your advice from time to time?---On community issues, yes.
30

Did you seek his advice from time to time?---Yes.

On what issues?---On community service.

Did you have his phone number in your phone?---Yes.

And did he have your phone number as far as you know - - -?---Yes.

- - - in his phone?---Yes.
40

And was there any discussion between you and Mr Montague on the subject of the difficulties posed for, in this, in the era of the development boom by the planning controls, the development controls in the LEP?---We did come across that subject, yes, briefly.

And are you saying that you remember a particular conversation, when you say briefly, what do you mean?---In general.

Yes. What do you mean by that?---I mean we spoke about the, the new planning laws and across Sydney we speak about the, the, the pressure which is, which is created on the Canterbury area, from a political and from a, from an economical perspective.

And how often was that a topic of conversation between you and Mr Montague?---Oh, very occasionally.

10 I'm sorry?---Very occasionally, sir.

Yes. Once a year, once a month, once a week?---No, not once a week. I don't think once a week but ah, I'll say once every few months it comes up.

And did you raise that sort of issue with Mr Occhiuzzi?---No.

Was there any reason why you didn't?---I had very little interaction with Mr Occhiuzzi.

20 But you didn't attempt to cultivate him with a view to talking to him about those issues?---I probably saw Mr Occhiuzzi twice in his presence at Canterbury.

Yes.---Twice or three times.

But in that you could have approached him more often and tried to make a friend out of him, couldn't you, with a view to talking to him about loosening development controls, at least in particular cases?---No, I didn't.

30 Why not, why didn't you try to cultivate Mr Occhiuzzi?---Why would I want to cultivate Mr Occhiuzzi for?

Because he was the director of city planning. You said yourself that Mr Stavis was the director of city planning?---Yes.

40 And that is a person who, if they're inside the council, can have an influence on the decisions that are made by council that affect lot yields, say, for developers. So if Mr Stavis could do it, why couldn't Mr Occhiuzzi also do it?---I never attempted to cultivate any, any of them, any one of them. So - -
-

THE COMMISSIONER: Yes. We know that but why didn't you?---I have no need to cultivate them. What for?

MR BUCHANAN: Because you had Mr Montague to talk to about it?
---Yeah. that's right.

And Mr Montague, though, was a person who was responsible for managing the whole of council, wasn't he?---That's right.

Whereas Mr Occhiuzzi was the person who would send out the reports to the decision makers, the councillors in council. Did you encounter – I withdraw that. Did you attempt to cultivate Mr Occhiuzzi and find that he was resistant to being cultivated?---I never tried.

Did you attempt to cultivate Mr Stavis?---I had very little dealing with Mr Stavis after he became a director.

- 10 What dealings did you have with him after he became director?---I said previously that I have organised a meeting for Dyldam to discuss the, the Department of Planning recommendation on that site in Brighton Avenue, Croydon Park.

Right. You've told us about that. Anything else?---Absolutely not.

Was there any other occasion at which you talked to Mr Stavis?---No. I had very little contact with Mr Stavis after his appointment.

- 20 Did you have any understanding, after his appointment, about Mr Stavis' approach to the difficulties developers might encounter with constraints posed by the development controls in the LEP on their developments? ---Well, the only thing I got, is the feedback from people, where people were complaining about the difficulties they were having in trying to get results on the development. I said that before.

And were they complaining about Mr Stavis?---Yes.

- 30 And was Mr Demian complaining about Mr Stavis?---He is one of them. Yes.

I'm just wondering, though, why would you talk to Mr Montague about these things when he isn't the person who's writing the reports that go to council?---We're talking in general about policy rather than, Mr Montague is not a planner so our conversations were focused on government policies and changes across Sydney, rather than Canterbury.

- 40 And you didn't talk to Mr Montague ever about the need to relax development controls in a particular case?---No.

Did you talk to Mr Montague about the need to relax development controls in a general sense?---No.

You didn't talk to Mr Montague about relaxing development controls ever? Is that what you tell us?---Yes. I did not ask him to relax. What I have asked him to do, or advised him to do, is to overhaul the Planning Department and to be able to cater for all the pressure that they'd been

having in (not transcribable). I advise him, of course. I don't tell him what to do.

So, you wouldn't put Mr Montague into the category of being a person inside council who could be of assistance in alleviating development controls in a particular case?---The best thing Mr Montague can do is to organise a meeting with the planners for any prospective complaint, or any prospective developer, in his presence with the planners or whoever they, and discuss the matter. That is the best thing Mr Montague can offer.

10 Why? Because first, he doesn't understand planning, and I know Jim very well. Secondly, that is his style for years, where Jim tried to assist people by putting their case in front of him directly for the planners and then if there's an issue of delays or issues of mistakes or, then Mr Montague would ask the planners to re-look at the application and come back him about it. That's the, the most I have seen Mr Montague doing.

So when you say 'mistakes and that sort of thing', did he convene meetings between council planners or council officers on the one hand, and development proponents on the other hand with a view to finding solutions posed by a development constraint inhibiting a development, a particular development?---The proponents are not necessarily developers, they couldn't be architects or planners or anything.

Yes?---Number two, from what I know, that a lot of cases are put on the shelf and delayed for a long time. This basically where most of the complaints were about, are delays, and this is where Mr Montague instruct, he can start having a look at this further and what, what's the delays, or something like this.

30 So, is it your evidence then - - -

THE COMMISSIONER: You didn't answer Mr Buchanan's question. He asked did you know whether Mr Montague convened meetings between council staff and developers stroke architect, whoever, about trying to find solutions to problems with the development controls. Now, did you know that or not?---No, I didn't.

All right.

40 MR BUCHANAN: Height limits for buildings and FSR requirements and setback requirements, we've already agreed, were primary constraints posed by development controls in the LEP, weren't they?---That's right.

They were the subject of meetings, you know, don't you, that were organised by Mr Montague between council staff on the one hand and developers and or their representatives on the other hand. Isn't that the case?---No. I'm not sure what those meetings were about, I'm not in a

position to tell you. That could be one, there could be other reasons, I don't know.

Were you ever present at a meeting that Mr Montague, as you understood it, had organised between council staff on the one hand and the developer or the developer's representatives on the other, where a solution was trying to be found?---Once or twice, yes.

10 And are you saying that there was only two?---I've been present at two, yes.

Can you think of those particular two?---A long time ago, one of them, one of them was applications were there for months and months and the architect came to see me about it. I said, look, I think you better organise a meeting with Mr Montague, and I've organised a meeting and went along with them.

And did you ask Mr Montague to intervene?---I have, yes. I have. The actual architect did ask Mr Montague to intervene.

20 And the architect worked for, was retained by, the developer?---Yes.

And who was the developer?---I have no idea.

When you say you have no idea, what do you mean?---The architect approached me, not the developer, sir.

Yes, but you went along to the meeting?---Yes.

30 And you had no idea who the developer was?---No, because architect act on behalf of developers, as you said.

Why would you go to the meeting, why would you take your time to go to a meeting where you have no idea who is going to benefit from it? Why did you intervene in the first place if you have no idea who is going to benefit from it?---I do help a lot of people, sir, and I don't expect to benefit from everything I do.

40 What was the second occasion?---The second occasion, the second occasion was about, from memory, illegally built garage in Croydon Park. The guy, I knew the guy, he's a farmer, he had the wall extended more than it should be and there was an order against him to demolish the, the actual thing. I knew that guy from the market, he was at the market and he rang me up and asked for assistance, so I've organised for him to come and see Mr Montague, and the planners were there, and the planners gave him a - - -

The council's planners?---Yes.

Yes?---And the planners gave him a list of what he need to do to re-lodge a DA for that structure. That is, from my memory, that's what happened.

And were there only two occasions where you were approached and asked to assist a landholder or a development proponent with an application or a submission or a problem in relation to development that was in council?
---No, no. I've done a lot of those small things before.

10 Would it be fair to say that as you understood it, you believe you were reasonably well-known in the Canterbury Local Government area as a person who could assist with achieving solutions where the power to grant a solution lay with council?---Small solutions, small matters.

Not big ones. And when I say big ones I mean overcoming a problem posed by a height limit, a building height limit or a setback requirement or an FSR requirement?---No, absolutely no.

You weren't involved ever?---No.

20 Can I ask you about George Vasil. You know George Vasil?---I do.

And he's the owner of, or is he still the owner of Ray White Real Estate agency at Burwood?---I believe, I believe so.

How long have you know Mr Vasil, sir?---I know George for about, I know, I knew of him before but I know for about five or six years basically.

30 And are you counting back from now or are you counting back from - - -?
---From now, from now.

From now. Okay. So you knew him in 2014/16?---Oh, yeah.

And what did you understand his involvement was with Canterbury City Council?---George is a unique and unusual person in relation to his - - -

He's very knowledgeable about planning.---That's right, and - - -

40 But I'm asking you about his relationship with council, not his knowledge - - -?---Yeah.

- - - but his relationship with council.---I was - - -

Can you tell us about that, please.---I was taking you there. George is every, every meeting I believe or most of the meeting of the council, I don't, I don't go to meetings but he does.

Yeah.---And he does take notes, he does watch the, the, the issues which come to council.

What dealings does he have with councillors between '14 and '16?---His son is a councillor.

Yes. Beyond that?---He, he's, he's a friend of I believe Michael Hawatt.

Yes.---They're both active in the Liberal Party I understand.

10 Yes. Anyone else?---He, he, he knows Jim for a long time.

Jim Montague?---Yes.

Yes.---Before, before I met him. And I'm not sure if his relations, oh, well, he knows Pierre, Pierre Azzi, but I'm not sure about his relations with the others, to be quite honest, sir.

20 And as far as you know did Mr Vasil intervene at all to try to achieve solutions generally say for developers or those wanting to develop in the Canterbury City Council area?---George gave advice to people who came to see him about any matter to do with planning.

Did he intervene with councillors?---I'm not, I'm not sure.

Did he intervene with Mr Montague?---He used to speak to Jim all the time but I don't know what about, to be quite honest.

Did he intervene with Mr Occhiuzzi?---I am not sure.

30 Did he intervene with Mr Stavis?---Ah, George and Stavis, no, I don't, I'm not sure, I'm not sure.

You don't know of any occasion when Mr Vasil dealt with Mr Stavis?
---George used to call council to, well, in front of me a couple of times to turn the attention about legal matters or a planning inconsistency. He is a very knowledgeable planner and actually I was told some of them used to call him for advice.

40 Was it your impression that Mr Vasil was what might be called pro-development?---I'd say so.

And that would be a fair description of your approach to development of the Canterbury City Council area in 2014-2016, wouldn't it?---No, no, I had a lot of question mark, Mr, I had a lot of question mark about the way things were done, to be quite honest with you. I expressed my concern repeatedly to Jim in relation to infrastructure. That was my position, very well known, I've always thought that infrastructure must be put in first before – and only, the other matter too is I have a - - -

Thank you. But you have told us earlier that you not only held the view but expressed it, that you considered the development controls to be somewhat antiquated in the Canterbury City Council area?---Mmm.

And there was a boom on, or an incipient boom, and they were being unreasonably constrained?---Mmm.

10 And that you thought the controls ought to be updated so that that boom in development, particularly, for example, on the Canterbury Road corridor could be accommodated, didn't you?---Yes, but I've added that infrastructure must be looked at.

Yes, with that qualification?---With that qualification, yes, exactly, so one goes with the other.

Councillor Hawatt, you knew Councillor Hawatt between 2014-2016?---I did.

20 And how long had you known Mr Hawatt?---I knew of him for a, for a long time but we never sort of, he, he came to me some time within those years looking for, looking for a formwork, a form maker operation, form, the form makers for the building.

Yes?---There was a new invention by an Australian engineer, and - - -

Thank you. You say there was a particular project?---That's one.

Yes?---The second one was aluminium.

30 That's another project?---Another project.

Yes. Anything apart from two, those two projects?---And, and his nephew, apparently, is marketing special paint to prevent heat.

Three projects?---Three projects.

What about development in the Canterbury City Council area?---I never discussed development with Mr Hawatt.

40 Did you ever discuss with Mr Hawatt the desirability of loosening development controls in the Canterbury City Council area?---I think Mr Hawatt has his own opinion about that.

THE COMMISSIONER: No. Did you ever discuss it with him?---Yes, I have. Yes, yes, sorry. Yeah.

MR BUCHANAN: And his views were what?---His views, he's pro-development, yeah, make no mistake.

Was he of the view that things needed to be done to ensure that constraints – I withdraw that – that development controls were not an unreasonable constraint on developments, such as in the Canterbury Road corridor?
---Yeah, that was his opinion. Yeah.

And you discussed that sort of thing with him?--- Yes.

10 And he was of the view that things needed to be done to create an environment, an enabling environment to reduce the constraints?---Yes. Something like that, yes.

Did that include ensuring that the director of city planning was amenable to the loosening of development controls with a constraint on large development?---That subject wasn't, wasn't - - -

I'm sorry?---That subject wasn't, wasn't discussed, no.

20 Were you a friend of Councillor Hawatt's?---Look, I'll say an acquaintance rather than a friend.

Had you been to his place?---I think, I've attended a barbecue there, years ago. Yes. I was invited.

Has he been to your place?---He has, yes.

30 Did you ever have a conversation with Councillor Hawatt about any particular rezoning proposal or development application to the Canterbury area?---No.

Councillor Azzi, you've already explained that his wife, am I using the right words, took you in, in a sense? In a friendly way to provide food and sociability? Is that fair?---Yeah.

That was at Councillor Azzi's house, was it?---Yes.

40 And how often did you go to Councillor Azzi's house in the period of 2014/2016?---I really can't tell. Once, sometimes once a week, sometimes once a, every couple of weeks. All depends on the, first, my availability and if I get invited. I just don't go by myself.

Was it a matter of invitation?---Yes.

You didn't just turn up?---No.

And were, were these events regular? As in did they occur on a particular day of the week?---He, he used to have, on Fridays, a gathering, he used to invite a lot of people for a drink. That's, that is - - -

Afternoon or evening?---Afternoon, after, after - - -

In, in the warmer months, were these barbecues?---Yeah, yeah. Barbecue, sometimes a drink. It doesn't have to be a barbecue. He, they're very hospitable people. They always have people at their place.

And in fairness to you, I think, on some occasions, you took your son?
---Yes.

10

And there was some social interaction between your son and Councillor Azzi's daughter?---Yes.

When you went to Councillor Azzi's house on these occasions, did you see people from the council, being either councillors or staff there?
---Occasionally, yes.

20

And who did you see at Councillor Azzi's house on these entertainment afternoons or evenings?---Depends. Sometimes Jim is there by himself.
Jim Montague?---Yes.

Was he sometimes there with someone?---Sometimes Jim would call me and we would go together. Sometimes Hawatt would be there. Sometimes other MPs, local MPs would be there.

30

The mayor? Did you see him there?---The mayor, the mayor. I probably saw the mayor once a long time ago. The other people from different areas used to come. So, it was a, a, he's got, he's got that habit of you know, hospitality, where he invites people for a drink.

Did you see Mr Occhiuzzi there?---No.

Did you see Mr Stavis there?---Once, yes.

When you saw Mr Stavis at Councillor Azzi's house on one of these occasions, did he appear to arrive with Mr Montague?---Yes.

40

Did you see developers there?---Yes.

Who did you see there who were developers?---There were, I've seen people who are related, small-timers, who are related to Pierre, they just popped in. I've seen Charlie Demian, he used to come on Fridays for a drink, yes.

Was that often, occasional?---Occasional.

And did you ever have conversations with Mr Azzi about development issues before council whilst you were at those functions?---Okay, no. Mr Azzi knows very little about development.

But that doesn't, I withdraw that. Councillor Azzi, as a councillor had to vote.---Yes.

He had to make a decision which way he was going to vote.---Yes.

10 You're not telling us that he was always going to vote in favour of a development, are you?---No.

No. So, did you ever discuss with him, to inform him thing that he might need to know, in your opinion, in order to ensure that a development could proceed?---I never asked Councillor Azzi to vote to any - - -

That's not the question I asked you. I asked you whether you discussed with him a development with a view to informing him so that the development could proceed.---No.

20

Despite his, as you describe it, relative ignorance about planning, you didn't feel he needed to be informed?---I didn't feel informed and I don't think it's his job to be informed about, by anyone.

Did you discuss with Councillor Hawatt at Councillor Azzi's house particular development applications or planning proposals?---Absolutely not. I had very little dealing with Hawatt on this matter. Probably, we probably had a discussion about general situation but nothing specific.

30 Was there ever an occasion when at Councillor Azzi's house on one of these occasions there was a discussion involving Mr Montague and Mr Stavis and Mr Demian about his developments or his proposals?---Mr Montague's habit historically refuses to talk about council matters in a private setting. That's - - -

Again, that's not the question I asked you.---Mmm.

Assuming that to be the case - - -?---Yes.

40 - - - was it the case that there was ever a discussion to your knowledge at Councillor Azzi's house between Mr Montague, Mr Stavis and Mr Demian about one of Mr Demian's developments?---At, at Pierre's house you're referring to?

Yes.---No.

Anywhere else that you had in mind?---Well, if, if Mr Demian wants something he used to go to council, I mean he's - - -

No, I'm asking to your knowledge?---Yes.

Any other occasions to your knowledge?---No. When I was present you mean?

Well, no. I'm asking to your knowledge. For example, if Mr Demian said, just had a great discussion with Mr Stavris and Mr Montague last Friday at Pierre's house, this proposal of mine's going to go ahead now.---No.

10

Nothing like that?---No.

No. He didn't ever indicate that he had had a satisfactory discussion with those gentlemen at for example Councillor Azzi's house?---No.

Mr Occhiuzzi departed at some stage in late 2014. You were aware of that around the time it occurred I take it?---Yes.

20 And was that a matter of discussion between you and any of the people that we've mentioned?---Absolutely not.

You never discussed with Mr Montague what needed to be done now, the position had to be filled?---No.

You never discussed with Mr Hawatt the filling of the position of director (city planning)?---No. Who am I to discuss with these people filling a position? I mean, I mean you're giving me a lot of, a lot of weight which I don't have. I mean who am I to go and discuss an appointment of a staff at council? I mean what capacity?

30

Well, as a person who had an interest in development proposals overcoming regulatory hurdles at council level.---That was - - -

You were such a person, weren't you?---Theoretically, yes, I was, I had that opinion, but that doesn't mean I'm chasing development to (not transcribable) It's two different things. I mean, I mean I - - -

40 And you were generally speaking in favour of the hurdles imposed by regulatory constraints being overcome in order to accommodate the development boom, weren't you?---I don't understand the question.

You had an intrinsic interest and you had a potential financial interest in the constraints posed by development controls being alleviated at council level, didn't you?---No, no, I didn't.

Your relationship with Mr Montague was a reasonably close one, wasn't it? ---Yes.

And I just want to establish this. You mentioned to the investigators, the Commission investigators, that you once got kicked out of Councillor Azzi's house because you were defending Jim Montague.---Yes.

What was that about?---Well, it's about the motion that they were trying to put to sack Mr Montague which I thought gross and I have a lot of high regard for Mr Montague, and I don't think that act is, is a good thing for the community and for council and I had a position on it.

10 Thank you. Just going back to Councillor Hawatt, I withdraw that. Going back to George Vasil - - - ?---Mmm.

- - - did you ever go to his real estate agency office in Earlwood?---I did.

How often in the period '14 to '16?---I was going there once or twice a week because he was helping me preparing an application for a real estate agencies, to become a real estate, a licenced real estate agent.

20 And did you take the opportunity of discussing other matters with him when you saw him at his office?---No, George and I always talk about things but nothing specific.

You didn't ever discuss with him – I withdraw that. You and Mr Vasil had in common an interest in alleviating the development control position in the Canterbury Council area, didn't you, between 2014 and 2016?---Not necessarily, no.

30 What do you mean not necessarily?---Well, we agree on things, we don't agree on others, it's not a general, a general rule that we, I mean, I can't speak on his behalf but I have many times had a strong opinion about this matter and I had expressed it to many people that a master plan must be done to control the heights and FSR and should be joint with infrastructure. My position was very different, sir, really, I mean - - -

Can I just ask this?---Yes.

40 Wasn't it your impression – I withdraw that. Was it your impression as a result of talking with Mr Vasil that generally speaking on the subject of the suitability, the modernity of development controls that applied in the Canterbury Council area, that they needed to be updated?---George, from my observation, was focusing on a different subject. He was focusing on the DCP, which - - -

THE COMMISSIONER: Sorry, the - - - ?---The DCP.

MR BUCHANAN: The development control plan?---The development control plan, which he knows DCP since, what, 30 years ago and how it wasn't updated and how it had contradiction, and, and how it needs to be

done. That was a big subject for George, and it had nothing to do with removing controls or, it had a lot to do with procedural matter to do with the DCP. It was something he always talked about.

I'm sorry, you know enough about planning law to know that the DCP itself could contain provisions which would act as constraints on development? Not in the sense of restraining the bulk of the building perhaps, but in terms of the detail of the constraints imposed by the LEP?---Correct.

10 And so really, what you're doing, tell me if I've got this wrong, is telling us that, yes, Mr Vasil as you understood it shared your views about the need for the development controls to be improved so as to loosen constrains on development, however, his focus when you spoke to him was more on the DCP?---Yeah, but not to loosen, just to get it legally right. It's not about loosening or not loosening, it's just about the conflict between one section and another. It's a very - - -

20 And was Mr Vasil interested in the decision making processes at council in your discussions with him?---No. I'm not aware that George - - -

Was he interested in whether the decision making processes in council could be improved, for example, by reducing delays, eliminating inconsistencies in approaches by council officers?---Yes, yes.

From one day to the next about the same matter?---I can say that.

He was interested in all that?---Yes, yes.

30 So was he interested in improving the quality of decision making in council on development?---I don't understand this question, sorry.

I accept that, I'll reframe it. Mr Vasil, we've already agreed, that there are two, relevantly, two segments of a local government entity like a council that have an impact on decision making in relation to development. One is the council staff and the other is the councillors comprising the council. Correct?---Correct.

40 And the council officers make decisions because they make recommendations?---That's correct.

Is that right?---Right.

And then the councillors make decisions on what is brought before them and they might or might not adopt the recommendations. That's how it works, isn't it?---Well, not quite because some of this goes to IHAP for determination.

We've already discussed that and we've already agreed that IHAP was not a consent authority, council was?---Well, that's right. And sometimes a smaller one goes to the City Development Committee.

The City Development Committee comprised - - - ?---Of a lot of councillors, yes.

The whole of council?---Well, yes. Not whole but, it's a different position.

- 10 But all I'm asking you to do is accept the proposition that in making decisions at council level about development you've got the relevant people who need to be brought around by anyone who is trying to loosen constraints, the council officers on the one hand and the councillors on the other hand. Those are the two decision making centres, aren't they, inside the body known as Canterbury City Council?---That's right.

So if you could bring them around one or the other at least both, then a developer would have an advantage?---If you bring them around - - -

- 20 If you bring them around to a pro-development position to appreciating and understanding and agreeing to a developer's submission or application, then you have an improvement on the situation so far as a developer is concerned, don't you?---Not quite, Mr Buchanan, because officers act independently from council and officers assess the application according to the law and make recommendation then which goes to council, and that recommendation could be for refusal, it could be for more, more evidence, it could be for approval. So, it's not a straight forward process from what I know.

- 30 After Mr Occhiuzzi left, did you speak to Councillor Hawatt about the filling of the director of city planning's position?---No.

Why do you say no?---Because I don't have interest in talking to him about it, it's not my, it's not my call. I mean, why would I want to speak to a councillor in relation to a position? It's so farfetched.

- I understand what you're saying but my question is somewhat different. What I'm actually asking is you to think back. Did you have conversation or conversations with Councillor Hawatt on the subject of filling the director of city planning's position?---I don't recall, I'm sorry.
- 40

And - - - ?---Very unlikely.

- - - if you had had a lot of discussions with Councillor Hawatt on that subject you would remember it, wouldn't you?---I didn't have a lot of discussion, I never said a lot of discussion.

I know, I know. I'm putting to you a different proposition?---Yes.

I'm just putting to you a hypothesis, if you did in fact have a lot of discussions with Councillor Hawatt about filling that position, then you would remember that, wouldn't you?---Yes, if I had a lot of discussion I would remember it.

Excuse me a moment. Now, on the subject of filling the DCP's position, the person who was appointed ultimately was Spiro Stavis. Is that right, you understood?---Yes, I understood.

10

And what was your first awareness of him, your first knowledge of him?
---I - - -

Where did you first hear of him or encounter him?---I - - -

MR STANTON: That's two questions, Your Honour.

MR BUCHANAN: I apologise. I'm just trying to get - - -

20 MR STANTON: No, I'm not trying to be pedantic, ma'am, and the last thing I want to do is interrupt my learned friend.

MR BUCHANAN: Very well. I'll ask, I'll ask three or four questions.

THE COMMISSIONER: That's all right, Mr Stanton.

MR BUCHANAN: When did you first hear of Mr Stavis?---I ah, didn't, don't, didn't know Mr Stavis, I don't know what he looks like.

30 That's not the question I asked.---I'm getting to your question, sir.

At the request of your counsel I'm splitting them up.---Yes, yes, okay.
Ah - - -

So my question is, where did you first hear of Mr Stavis?---Mr Montague asked me to ah, if I knew him, I said no, and asked me if I can get him some information about who he is, where he's been, what he's done.

40 Did Mr Montague indicate why he needed that information?---I didn't ask.

So he didn't tell you that it was to do with filling the DCP's position?
---Well, I assumed that's the case, but Mr, Mr Montague didn't tell me that, sir, he just wanted to know information about him.

And how did that conversation take place, was it face-to-face, over the telephone, by email?---Face-to-face, face-to-face.

Face-to-face. Where were you and where was he?---I think we were having coffee or lunch or something like that, yes.

Can you picture the occasion when he asked you?---No, I can't remember.

Was there anything else discussed on that occasion?---No, no, he just simply said, "Look, if you can find out." He said, he asked me first, "Did you know him?" I said, "No, never heard of him."

10 And was that honest, an honest answer?---Of course it is.

Mmm.---Because I never knew the guy. And he said that I'll be grateful if you can find out ah, knowing that I know a lot of people ah, any information about him. I said, "Yeah, I'll try."

And what happened next in relation to that?---I ah, I, I found out he, from some architect that he worked - - -

20 I'm sorry, you found out from?---I found from an architect that he worked in Strathfield and he worked in Botany and before that he was doing private work. So I rang, I rang someone used to be the ex-mayor of Strathfield, from memory it was Daniel Bott - - -

B-o-t-t?---Yes.

Yes.---From memory I asked him, "What do you think of him?" Daniel spoke very highly. I've rang a couple of architect I know ah, one did know him, one didn't. I rang, who else I've asked, so that's basically - - -

30 Who was the architect you spoke to in the first place - - -?---I spoke - - -

- - - who put you, gave you these leads?---Ah, I spoke to Dugald McKenzie. Dugald is in North Sydney.

D-u-g-a-l-l?---No, D-u-g-o-u-l-d, Dugald.

O-u-l-d?---Yeah.

40 Thank you.---Dugald, yeah, I think so.

A-u, a-u-l-d?---A-u-l-d, you're right, sir.

Yes.---Yeah. I believe from memory I spoke to someone in Burwood who does work in Strathfield, Tony, Tony Jreige, he's an architect.

How do you spell that surname?---Ah, G-r-e-i-g-e.

Thank you.---I spoke to others, I just can't recall, trying to get a good independent opinion, a round opinion for Jim. And I, and I - - -

So can I just check, who was it who told you that Mr Stavis worked or had worked at Strathfield and Botany Councils?---Well, Daniel Bott told me that ah, he was in Botany and then he come to Strathfield, or vice versa I'm sorry, he worked at Strathfield then he went to Botany.

10 But was it just a coincidence that you happened to be talking to Mr Bott and - - -?---I deliberately - - -

- - - all of a sudden Stavis turned out to have worked there?---No, no, I knew Mr ah, someone told me he worked in Strathfield. I deliberately - - -

Who told you?---Oh, jeez, I think one of the architect.

20 Who?---I'm not sure. I really can't remember. One of them told me that he worked in Strathfield and that's why I called Andrew to find out. And ah, Andrew said to me he came in, he ah, he fixed the department, he's a hard worker, he's done a lot of work here and - - -

What level in Strathfield Council, as you understood it, from what you were hearing from Andrew Bott?---I didn't ask (not transcribable) but he wasn't, he wasn't a director there, to be quite, I don't think he was a director. He must be a manager of assessment or a manager of, some kind of manager but not a director. I spoke to the architects.

Did you speak to anyone at Botany Bay Council?---No, I didn't.

30 Was there any reason why you didn't?---I know, I know no one there. No, someone to trust to get independent information at least. You can't go around asking, but anyhow, I, and I passed the message to Jim. I said, "Look, that's, that's as much as I get, I got." And that's - - -

Can I ask how you passed it to Jim?---I told him one on one, personally.

And in what circumstances? Over the phone, or face to face?---More likely face to face.

40 When you say, "More likely," I'm asking for your memory, sir.---No. I, I can't remember, I'm sorry. I can't remember.

How do you know you gave the information to Mr Montague? I just want to test your evidence.---Because I gave it to him.

How do you know you gave it to him?---I remember that I gave him that advice.

What is it that you remember about that? Just tell us what your memory is.
---I remember that, I'm not sure, by phone or by one on one, it's one of those two. And is that what you're trying to find out?

I just want your best memory, if you would, about how you communicated the information you'd obtained about Mr Stavis to Mr Montague.---More likely I gave it to him one on one. One on one.

10 But you say, the implication is that you don't have a memory of it.---No, no, no. I can't one hundred percent remember.

And did Mr Montague indicate to you, what he proposed to do with that information?---Yes. He said to me he is interested in applying, or he had applied already, I'm really not sure, and he, he needs to know more information (not transcribable)

Who's he? Mr Montague?---Yes.

20 Now, why did, as you understand it, why did Mr Montague ring you about Mr Stavis?---I think Jim was interested to, to know from the, not only from councils, from the general community and I, that's the feedback on, on him, rather than from the institution type of things. He, he could, he could write himself and get the answer, I'm sure. But he wanted to know more about his, I understand, private work in the community because he was doing private, and he's a local so he needs to know what is the opinion of normal people, clients.

30 So in the course of time, did you meet Mr Stavis?---Yes. I have. Actually, I, I was going to see George and - - -

George Vasil?---Yes. And he was there.

Who was there?---I got to meet him, Spiro. He was with George.

Where?---In Earlwood, in the office.

40 In the Ray White Real Estate office?---Yes. And I was, George invite us for a coffee. We went across the road. There's a café there. We sat down and I, I found it a good opportunity to ask more questions.

Well, first of all, can I just take a step back? What did you understand Mr Stavis was doing in Mr Vasil's office?---I don't know. He was there. George have all sorts of people coming to his place. But anyhow, he was there and I was introduced. And that was the first time - - -

By George?---Yes.

To - - -?---Yes. And that was the first time I see the guy. I've never seen him before. And then we had a coffee, now, while we having a coffee, I took the opportunity to ask more questions. Unfortunately - - -

10 Ask Spiro Stavis more questions?---Yes, yes, yes, yes, yes. Unfortunately, it sounded like an interview but it wasn't the intention. I've asked what is his past and what he's done, which private sector he worked with, did he have a big client in the community? Sort of, this sort of question. (not transcribable) his client in the community. I think that's the part which Jim was wanting to know, is who, was he working in the community and for who.

And you tell us, do you, that you're asking these questions of Mr Stavis on this occasion- - - ?---Yes.

- - - because you wanted to convey the information that you had obtained from Mr Stavis to Mr Montague?---Absolutely.

20 And how long were you and Mr Vasil and Mr Stavis together in the coffee shop?---Maybe half an hour.

Do you remember which coffee shop it was?---It was, if you go out of the office and go down on Homer Street, you turn left, there's a car park. Across, I don't know the name of the café, it's a famous place there, it's only five minutes away.

If you don't remember, you don't remember?---Yeah, five minutes' walk from his office.

30 Thank you. Before you met the pair in Mr Vasil's office, had you had any communication with Mr Vasil about Mr Stavis?---Yes, I think I did. I think George told me that there's a guy who is highly recommended by a good friend of his, do you know him? I said no, I never heard his name. And that, that was it, that was it.

40 So did you then arrange with Mr Stavis, sorry, did you arrange with Mr Vasil to meet him and Mr Stavis in Mr Vasil's office?---From what I understood it wasn't arranged, no, well I didn't arrange it but the guy was there.

So why did you go to the office?---I just said to you before, I was doing my application for real estate agent application and George was helping me with that.

That's something, though, that sounds as if occurred over a two year period. You gave that as the reason for going to Mr Vasil's office so frequently?---It took some time, yeah, to get the licence, of course.

There was no other reason you went to Mr Vasil's office?---No, I've been to his office frequently for that purpose.

It wasn't because you had a shared interest in development in the Canterbury Council area?---George doesn't, doesn't have, I'm not sure if George has any development in the Canterbury area.

How did you have this conversation with Mr Vasil in which you heard him talk about Mr Stavis?---I think a few days before.

10

By telephone?---No, no, I was in there in the office, I was there.

So you're in Mr Vasil's office?---Yeah.

And what happened?---He mentioned to me that there's a guy who he, he was highly recommended by a friend of his and, you know, his name and stuff. I said, yes, I actually heard his name and I'm just trying to get some information about him and the thing.

20

And highly recommended for what?---For the job.

So had you and Mr Vasil discussed the vacancy and the position and the need for it to be filled?---No.

Had you discussed with Mr Vasil the need for it to be filled by a person of a particular type?---No.

30

A person who might be amenable to the submissions and applications of developers to alleviate development controls?---No. Absolutely not.

THE COMMISSIONER: Who was the friend of Mr Vasil who highly recommended Mr Stavis?---A guy called, he's an architect and a councillor, Nick Katris, George mentioned.

MR BUCHANAN: I'm sorry, what was the surname?---Nick Katris. Nick, Nick Katris.

Yes?---Katris.

40

Was that the name that Mr Vasil gave you as being the person? Did you know Mr Katris?---I knew Mr Katris for a long time.

In what capacity?---He's a councillor in Kogarah previously, and he's an architect.

Councillor on - - - ?---Kogarah Council previously.

Kogarah Council?---Now it's changed to Georges River Council.

Right.---So I believe he's still there as a councillor.

And after the coffee shop what would have seemed like an interview to Mr Stavis, was Mr – I withdraw that. During that coffee shop meeting which might have seemed like an interview to Mr Stavis, did Mr Vasil ask questions of Mr Stavis as well?---Hmm - - -

10 Or was it just you?---No, I think, I think George asked a few questions as well, yeah.

So the two of you were asking him questions - - -?---Yes, yes.

- - - about his background and - - -?---Yeah, yeah.

20 What sort of questions though, how did they relate to the job, the position that needed to be filled?---No, nothing to do with the job. We ask him about where he worked, which client he was working for, his experience in the local area, question like this.

But did you ask him anything with a view to determining whether he was suitable as a candidate for the position of director (city planning)?---No.

Why not?---I didn't, I couldn't care less who is the director of planning.

But I thought Mr Montague - - -?---Yeah.

- - - wanted information - - -?---Yeah.

30 - - - about Mr Stavis - - -?---Yeah.

- - - in the context of - - -?---Yeah.

- - - filling the position of director (city planning.)---Yeah.

You didn't want to give Mr Montague the information he wanted you to obtain?---I don't know what the terms and condition of filling the director planning, it's something doesn't concern me.

40 But you did know what a director of city planning did, you told us this morning the director (city planning) was as far as you understood the top dog in decision-making in the council officer level.---Yeah.

You did know that, didn't you?---Yeah, I did know that, yeah.

Yeah.---But there's much more than that, being a top dog, I mean I'm sure. It's not a question of being a top dog. I, I honestly don't know the full

responsibility and duty of the director of planning except managing the Planning Department.

Did you ask any questions or did Mr Vasil ask any questions during this meeting in the coffee shop with Mr Stavis about his attitude towards development?---No, can't recall.

Did you try to ascertain whether he was pro-development?---No.

10 Did Mr Stavis indicate that he was pro-development?---No.

So the information you fed back to Mr Montague would give him no idea at all about whether this is a person who could be relied upon to assist in finding solutions when developers ran up against development controls that might inhibit their yield?---Absolutely not.

Why not?---How do we know? I mean - - -

20 Why wouldn't you ask questions like that, given the interest you had in it?
---Ah, Mr Buchanan, I'm not an interviewing officer, I just said, I've asked too many questions probably and I don't care less who becomes a director of planning to be quite honest to you.

Is that an honest answer, sir?---It is, it is extremely honest, you know why, Mr, because I have never dealt with those people and as you read Marcelo's things that I knew Marcelo, I never went to him and ask him to do anything for me.

30 Marcelo being Mr Occhiuzzi?---Yeah, Occhiuzzi. And if you look at the records since Spiro's appointment I had extremely very little to do with him. That is - - -

I just want to clarify. Your evidence to us is that you had no interest in who filled the position of director of city planning.---Absolutely.

You couldn't care less. Is that your, was that your view at the time that you met Mr Stavis at George Vasil's office and then had the coffee in the coffee shop and - - -?---It was.

40 - - - asked some questions of Mr Stavis?---It was my view before, it was my view then and still my view now.

Can I just ask this question. As far as you understood it at that time, did Jim Montague know George Vasil?---Yeah, of course. George - - -

And why do you say of course?---George knows Jim for over 30 years or more, I knew that, it's - - -

So did George ever indicate to you that Mr Montague needed information about this possible candidate for the position for the DCP?---George didn't know, I knew, I was asked, not George. Mr Montague asked me to get information, not, not George.

And Mr Vasil said nothing to you to indicate that Mr Montague had contacted him to find out about Mr Stavis?---No, no, absolutely not.

10 Do you know why Mr Montague would not have contacted George Vasil to find out about Mr Stavis, yet had contacted you?---Well, well, because Mr Montague trusts me to start with and he, you know, I mean, I'm his confidante in a way, to get the right information because he knows what I am and he knows I have no interest in supporting anyone for the job because I don't have an interest, he knows that very well, and on that basis he trusted me to, to gather information. I mean he, he always, I mean every time Jim needed information from the community, about the community, he's always asked me, Bechara, can you find out what's happening there. He had a lot of interest in the community and that was always something I've done for
20 Jim, it's nothing new.

THE COMMISSIONER: You said Mr Montague trusted you to get the right information about Mr Stavis. What was the right information?
---Look, there was, Commissioner, Jim, Jim was very nervous and anxious when he - - -

No, but what information, he must have told you the information to get?
---No, he didn't tell me. Oh, just get me the information, but he didn't tell me he got information, I didn't know what information he had or didn't.

30 No, no, no, no. You said he trusted you to get the right information. He must have told you what information to get. You know, was he interested in what school Mr Stavis went to, was he interested in - - -?---Oh, I understand. He was interested mainly to see who was he working with in the private sector. I remember that very well. Who were his client in the private sector. That's something he wanted to know.

And this was when, because Mr Stavis at this time was working for Botany Council?---I don't, I don't know, I don't know.

40 All right.---I don't know. (not transcribable)

MR BUCHANAN: Didn't you tell us that someone told you that Mr Stavis was working at Botany Council?---I assumed that's the case but I wasn't sure and I didn't ask him that way, which council are you working, well, I'm not sure if I asked him but ah - - -

Why wouldn't Mr Montague want to know about the job that Mr Stavis was currently doing?---I'm sure Mr Montague knew where he was working, that wasn't something I needed to provide. Mr Montague job to define that, but my role was to get feedback from the community and clients he works for, that was specifically what Mr Montague want.

Now, at the time of meeting Mr Stavis and Mr Vasil in the coffee shop, you had a view I understand about Mr Stavis, and I just want to refer you to something that you told the Commission investigators - - -?---Yes.

10

- - - in your interview on 15 February, 2017. If you could turn to page 22, please.---Yes.

And if you look at about below halfway down the page.---Yes.

Do you see where you are saying, "So I took the opportunity to, to start asking questions, just to give something Jim which is reliable."---Mmm.

Do you see that?---Yeah.

20

And the investigator said, "Sure." And you went on, "Cause you can ask people who will tell you anything and look, the guy came across as a decent bloke. He, he didn't have any backers, I mean I," and the investigator said, "When you, when you say backers, I know what you mean but for the record what do you mean?" And you said, "Look, every time someone applied to council for that particular position there's always backers, make no mistakes, they could be councillors." The investigator said, "Is someone supporting him in the background?" You said something that was not transcribed, and then, "There was no one." The investigator said, "Yeah." You said, "Because the guy was," the investigator said, "A nobody, right?" You said, this is going onto page 23, "But I, and I can, I can, I can" something that wasn't transcribed, "and I know all, all the time there is a mayor or an MP or someone who rings the general manager and put a word for an applicant." The investigator said, "Yep." You said, "Make no mistake about it." Then another investigator said, "What about developers, do you know whether developers do that sometimes?" And you said, "Now, maybe, maybe, but Spiro did not have a high profile with developers. Most of the people he was doing jobs for were sort of small-timers." That's the extract that I just wanted to remind you of. Do you recall saying that?

30

40

---(No Audible Reply)

Is your answer yes?---Yes.

And so it's your experience that when people were applying for senior staff positions, would it be fair to say, at council's generally - - - ?---Yes.

- - - it was not unusual for them to know the mayor or to know a councillor or to know the local MP, or to have someone who could put in a good word for them?---Yes.

But as far as you understood it at the time you were dealing with Mr Stavis in the coffee shop, he had no one?---Yes.

And that's what you meant by saying he didn't have any backers?---Yes.

10 Is that right?---Yes. Mr Buchanan, just small correction.

Yes, sure?---When I said others councillors or whatever, that didn't mean from the people who work in the same council, example, you could be working in Parramatta and you're applying in Burwood, there's always communication to support your position.

I understand?---Yeah.

20 So I just want to be clear about this, at the time you first met Mr Stavis he, as far as you knew, had no one backing him. Is that right?---That's right.

George Vasil wasn't backing him?---No.

You weren't backing him?---I just met him.

I'm sorry?---I just met him then, I mean, I just met him, so - - -

30 Did that remain the case? Did it remain the case that he had no backers?---I believe so.

Did it remain the case that he had no backers all the way through until he was offered the job?---I believe so.

And it was essentially a coincidence that you met him?---I believe so.

Your first meeting with him?---Absolutely.

40 There'd been no arrangement to meet and you hadn't had any contact with Stavis before the meeting?---No.

Had Stavis rung you to ask about the position or rung you at all?---I think he did call me after the meeting we had but not before.

THE COMMISSIONER: Mr Khouri, could you just speak up?---Sorry, ma'am, Commissioner.

MR BUCHANAN: Right?---Yes, he did, he did call me after.

Is this the next contact you had with Mr Stavis?---Yes.

What happened?---I think he called me to let me know that he's interested in a job and - - -

When you say, 'I think', do you have a memory that you had a telephone conversation in which after this time you physically met Mr Stavis, he said to you, 'Look, I'm interested in a job'?---I believe so, yes.

10 When you say, 'I believe so', did it happen?---Yes, it did. Yes, it did. And I wished him good luck and that was - - -

Did you pass that onto Mr Montague?---No.

So that was a very short conversation?---Very short indeed.

20 And what was the next thing that happened between or in relation to Mr Stavis as far as you were concerned?---Just to go back to that phone, I said to Mr Stavis, good luck, I cannot promise you or give you misleading information that I can help you or I want to be involved in this situation. I've asked you when I saw you for information, that's as far as my involvement is, I made that very clear so there'll be no more misunderstanding.

So you were upfront with Mr Stavis, you told him, 'I'm not going to be your backer'?---That's right. That's right.

30 And you didn't indicate that anyone else was going to be his backer, either? ---I didn't, I didn't, I don't know who was backing him or not backing him, I don't think anyone was backing him.

Now, what was the next dealing you had, when I say dealing I mean physical meeting, telephone call, fax, email?---I believe, from my memory, that, that he, he called or I called to congratulate him for getting the job because I was told he got the job. And later, he called me to say to me, "I have no job." I said, "What do you mean?" He said, "My appointment has been cancelled.

40 Okay. There's two different conversations there.---Absolutely.

Just take the first one first. You called him or he called you and there was a conversation about the fact that he got the job?---Yes.

What was said by whom?---He, he called me and he said, "I've got the job." I said, "Congratulations." And that was the end of the conversation. And then a week later, or I'm not sure how many days later, he calls me. He said, "Oh, look, Bechara, I don't know what's going on. I, I no longer have the job." I said, "What do you mean?" He said, "I lost the job." I said, "Are

you sure?" He said, "Yes." I said, "Look, I suggest very strongly that you speak to Mr Montague and find out what's going on." Because I didn't know what was going on to be quite honest to you. I wasn't privileged to that period of time because I was busy, I had other things. I was in Canberra looking after the restaurant so I missed that period. I wasn't in touch at all. And then when I come back, hell was loose in relation to - - -

Hell was loose?---Yeah.

10 All hell had broken loose is the expression.---Sorry.

That's okay. Yes.---Thank you for the correction.

That's okay.---And, and, and that was a, a very unusual, I didn't understand to be quite honest to you, I - - -

Well, at the moment I'm only asking you about a telephone conversation. ---Asking about telephone call. Yes. Okay. He, he got the job, then he lost the job.

20

And those are two conversations?---Telephone conversations.

So, essentially there were three conversations after the coffee shop meeting? ---Yep.

Now, how did Mr Stavis get your telephone number to ring you?---Oh, he got it, I gave it to him there, when we were at George's.

30 Why did you give it to him?---I gave it to him because I have it and I don't know. Because, in case he needed to talk to me or something, you know? It's either, sorry, it's either me or George, I'm not sure who gave him the, the number. It's - - -

Your number?---My number. Yeah, yeah. George gave my number.

And what about Mr Stavis' number? Did you get that?---I did as well, yes.

How did get that?---From George.

40 From George?---Yes.

When did you get that?---I can't recall.

When in relation to the coffee shop meeting?---Maybe same day, I'm not sure, I can't recall. I can't recall. It's a possibility that he gave me the number straight away or I gave him the number. I don't know.

And I'm just curious, you obviously kept the number?---Yeah, of course.

Did you enter it in to your phone?---Yes.

And assign a name, Spiro Stavis, to it?---Yes.

10 And why did you do that? I'm not saying there's anything wrong with doing that, I'm just asking. Given the interest you had, which sounds on what you tell us, to have been limited, in Mr Stavis, and as far as you're concerned, how he got appointed or he didn't, you didn't really care, that was, that's how things stood at the end of the coffee shop meeting, is that right?---That's right.

Why would you bother entering his phone number in to your phone?---No special reason. That's, that's a normal, normal thing I do when I meet people. I give them my number, they give me their number. There's nothing special - - -

20 But that wasn't what happened here. George Vasil, you tell us, gave you Spiro Stavis' number.--- I said, it's either me or George, I'm not sure which one. I repeat. I could have given him my number and he gave me his, or George would have done that but I know I have his number in my phone with his name on it.

I'd like to show you a document, Mr Khouri. But, Your Honour, for the purposes of doing this I'll need to tender it in the first instance, and so I'll need to provide you with a copy and then if I could speak to it before Your Honour determines whether or not to receive it into evidence.

30 THE COMMISSIONER: Yes.

MR BUCHANAN: This document is a seven-page table, Commissioner, which has been prepared by staff of the Commission from data that they have obtained, and the document could be described as call charge records for the people nominated at the top of the first page. The data I am instructed is available if any party wishes to access it for the purpose of verifying the summary, which is what this is, which appears in the table. But my tender and the examination of the witness on it would be on the basis that the data in it is accurate.

40 THE COMMISSIONER: All right.

MR BUCHANAN: But it's subject to the qualification that if a party wants access they should ask.

THE COMMISSIONER: All right.

MR BUCHANAN: The second matter I should indicate that I am not going to be relying at all on the right hand column, so - - -

THE COMMISSIONER: That's under caller location.

MR BUCHANAN: Under caller location. I'm not going to be relying at all on the data in that column, and there are qualifications that need to be understood in relation to the accuracy of the data in the third column from the right under the heading 'Start Time'. I'll lead a little bit of evidence from the witness if I may, just one question first. Mr Khouri, was your mobile telephone service provider Vodafone?---Yes.

10

Thank you. Commissioner, I'm instructed that the data in relation to texts which are denoted by the letters SMS as to start time have not been adjusted to time in New South Wales and, Commissioner, you look down the dates under the heading 'Start Date' in the fourth column from the right, you will see that the start dates are from October 2014 and they go into November 2014 on the last page, and so that would be consistent with daylight savings in New South Wales time. And I'm reminded that that is the case only for Vodafone and therefore so far as the evidence of this witness is concerned, only for his SMSs. So far as the accuracy or reliability of the data under heading 'Start Time' in the third column from the right for telephone calls made using the provider Vodafone, the times have, of the start times, have been adjusted to daylight saving time in New South Wales. So, for SMSs to get an accurate time, in summary, one would need for Mr Khouri's SMSs to add one hour to get an accurate time because they're set out here one hour behind.

20

THE COMMISSIONER: And sorry, can I just confirm?

MR BUCHANAN: Yes.

30

THE COMMISSIONER: This is where Mr Khouri sent an SMS?

MR BUCHANAN: Yes.

THE COMMISSIONER: And so it would be circumstances where the entry records phone user number 1 as Mr Khouri?

MR BUCHANAN: Yes.

40

THE COMMISSIONER: All right.

MR BUCHANAN: Yes. So, to ensure that people can follow what is happening I would need, Your Honour, Commissioner, to admit it into evidence so that I can then examine the witness on it.

THE COMMISSIONER: Yes. All right then.

MR STANTON: Well subject to seeing the primary data, I've got no reservations at this stage, thank you, Commissioner.

THE COMMISSIONER: And you would like to see the primary data?

MR STANTON: I would if I could, please, Commissioner.

THE COMMISSIONER: All right. We'll organise - - -

10 MR STANTON: Not that I doubt it, but nevertheless one never likes to make assumptions.

THE COMMISSIONER: That's all right. We'll organise that for you.

MR STANTON: Several years of practise have taught me that.

THE COMMISSIONER: The call charge records between 25 October, 2014 to 20 November, 2014, the summary document will be Exhibit 58.

20

#EXH-058 – CALL CHARGE RECORDS FOR BECHARA KHOURI, GEORGE VASIL, JIM MONTAGUE, MICHAEL HAWATT, PIERRE AZZI & SPIRO STAVIS FROM 25 OCTOBER 2014 TO 20 NOVEMBER 2014

MR STANTON: May it please the court.

30 MR BUCHANAN: If a copy could be provided to the witness of Exhibit 58. Can I ask you to turn – they're terribly small numbers on the bottom right-hand corner, Mr Khouri, but if I could ask you to turn to page 3. ---3.

And you'll see that in this version of the call charge records - - -?---Yes.

- - - there are a number, and if you just flick through you'll - - -

MR STANTON: (not transcribable)

40 MR BUCHANAN: I apologise.

MR STANTON: No, no, please don't apologise, it's me, I'm the – could this exhibit though, bearing in mind it's Exhibit 58, bearing in mind it has the phone numbers on it, should there be some restriction in terms of public access or the publication of it, ma'am, with no disrespect, I mean I'm ever-sensitive to privacy issues as such, bearing in mind the need for the records to be into evidence, but, Commissioner, bearing in mind that there are numbers of people on this - - -

THE COMMISSIONER: Can you just excuse me.

MR BUCHANAN: If, Commissioner, you have a memory of the order extending to phone numbers that has already been made - - -

THE COMMISSIONER: I was just trying to find that.

10 MR BUCHANAN: - - - that's our submissions, that the current order extends to phone numbers. Mr Stanton however makes a point that it always, it doesn't hurt to remind that the order does extend to the phone numbers, but can I also add that when the exhibit, like the other exhibits, go on the public website the phone numbers will be redacted.

THE COMMISSIONER: And, Mr Stanton, for your assistance if you have access to the transcript of the first day at page 56 - - -

MR STANTON: Page 56.

20 THE COMMISSIONER: - - - is the suppression order I made under section 112 which would mean - - -

MR STANTON: I'm indebted, Commissioner.

THE COMMISSIONER: - - - as Mr Buchanan has outlined, if this exhibit goes on the public website the phone numbers will be redacted.

30 MR STANTON: I'm beholden to you, ma'am, thank you, and I will note that accordingly. Thank you. Thanks Mr Buchanan. Sorry for the interruption.

MR BUCHANAN: That's all right.

Mr Khouri - - -?---Yes, sir.

- - - you will have seen that there are a number of highlightings on most pages?---Yes.

40 And that each of those highlightings has you as the phone user 1 or phone user 2.---Mmm.

Looking at the left-hand column, the far left-hand column - - -?---Yes.

- - - and the third column from the left.---Yes.

Have you noticed that?---Yes.

Thank you. Now, can I just check, was your phone number at the time

[REDACTED] Yes.

Thank you. If you go to page 3, that's the small numbers, microscopic numbers on the bottom right, you'll see that there's a highlighted, one highlighted call on that page - - -?---Yeah.

- - - for the date 5 November, 2014. And it's recorded as a call from Mr Stavis's phone to your phone - - -?---Yes.

10 - - - with a duration of one minute, 46 seconds at 12.51pm on that day.
---Mmm.

That's the first call on this table between you and Mr Stavis.---Yes.

Are you able to tell us what that call was about?---Did he call me or I called him in this one, who called who?

Well, I'm asking you what that call was about. Sorry, are you asking how to read the table?---Yes.
20

He called you because phone user 1 - - -?---I see, I see.

- - - is the caller.---Yeah, yeah. Oh, it's very difficult to remember, Mr Buchanan. I honestly can't remember what, you said for one minute, one minute and 46 seconds.

You didn't get a call from Mr Stavis saying, 'I've been told I should call you' or anything like that?---I can't recall, I can't recall.

30 Well you would remember that if it had happened because it's different from the evidence you've already given, isn't it? If that happened?---Well the evidence I gave was to the best of my memory, I don't know. I can't remember, honestly.

If we can go over the page?---Yes.

To page 4?---Yes.

40 And there's a number of phone calls that are registered here and SMSs that are registered here?---Yeah.

So that call that we looked at on page 3 was on 5 November?---Mmm.

On 6 November, you sent a text to Mr Stavis at about, as it's registered here, 1.00pm but we adjust it for daylight saving, was probably more like 12.00pm?---Mmm.

Do you remember sending texts to Mr Stavis?---I could have.

What would they have been about?---He is probably asking me a question or something, I, I, I, I honestly can't recall exactly, Mr Buchanan, what was the context. Don't you have the, the, the, what's the text was about?

I'm sorry?---Don't you have the text itself?

10 THE COMMISSIONER: Well, we're only dealing with this document at the moment?---Yeah, what I'm saying, Commissioner, is it doesn't say what the text is?

No, we've just got to deal with this evidence?---Yes. Yes. Yes.

MR BUCHANAN: And I've erred, Your Honour, as those who know much better than I do about this sort of thing. Because of the adjustment that needs to be made for Vodafone call records where they are in SMS, the time is more likely to have been 1.59, that is to say close to 2.00pm.

20 THE COMMISSIONER: You add an hour.

MR BUCHANAN: Add an hour for daylight saving, thank you. I'm grateful for the correction. What would you have been texting Mr Stavis about?---He would've asked me a question and I would've returned the answer.

30 You haven't told us about any communication like that having occurred between you and Mr Stavis?---Because I couldn't remember, Mr Buchanan. I, I, I, I said what I remembered, now there's phone calls, question, answers, that could very well be the case but I said that he called me after the, we met.

Yes?---And if he, if you see phone user number 1 in page, in page one, two, three, four, there's a lot. You notice that, you'll notice that most of the calls, one, two, three, four, five, six, seven, eight, came from Spiro Stavis.

Yes?---So obviously - - -

40 You haven't told us about eight calls from Spiro Stavis, have you?---I couldn't, I couldn't remember how many calls.

There's a big difference between eight calls and one call, isn't there?---I only said what I remember. Now - - -

You do now remember?---Well no, still, I don't remember what's those calls were about, I honestly don't.

Then if we go to what's registered as a start time of 13.58 in the fourth row?---Mmm.

Mr Stavis texted you. Do you see that?---Is that phone service number 2?

Yes. It's the fourth row of data, it's highlighted?---Yes.

Spiro Stavis calling Bechara Khouri, and we know that the type of communication was an SMS because it says so?---It says SMS. Yeah. That's right. Yeah. Yeah. Yeah. Yeah.

10 What was that about?---No idea.

Then on the same day at what's recorded as 19.17, you sent him an SMS. What was that about?---I can't recall.

And then shortly afterwards - - -

THE COMMISSIONER: Or would it have been shortly before?

MR BUCHANAN: Thank you. It could've been shortly before, thank you, around the same time, Mr Stavis called you and the duration of that call was two minutes and 56 seconds?---Yeah.

What was that about?---I just can't recall, but if you notice, they are very, very short calls, so it's questions and answers probably, something very, very small, otherwise it wouldn't be one minute, less than a minute, so he would've been asking me things. I don't, I can't recall.

And then there are two SMSs recorded?---There's three.

30 Thank you. No, two SMSs recorded, what's recorded here is 2016 and 2018, Mr Stavis sent you two texts in a row.

THE COMMISSIONER: There was probably one from Mr Khouri in between?---That's what I thought.

MR BUCHANAN: Thank you, Commissioner?---Yeah.

40 Do you understand what the Commissioner has suggested, the way in which this should be read? That having regard to the difficulty with the time recorded for SMSs because it was a Vodafone phone, we need to read them as being one hour forward?---Mmm.

So what was that series of communications about on 6 November?---Look, as far as I remember, Spiro was asking, from memory, questions and, I honestly can't, I'd lie to you if I tell you I remember anything. It would be something question and answer, I don't know what it is.

But there's six of them in one day?---Yeah.

If you include the telephone calls?---Yeah, yeah. Why he was, I can't recall why he was calling me.

And even though you, I withdraw that. You would have a good reason to retain a reasonable memory, I suggest to you, of communications with Mr Stavis, because of the hell breaking loose shortly after he was appointed. Correct?---Yes.

10 And the time he was appointed or, rather, offered employment, I'd ask you to accept, was 8 December?---I don't know. I don't know when he was appointed but anyhow, if you say so.

Was there any communication between you and Mr Stavis about the process of the selection of candidates for the position of director of city planning?
---I didn't know the process and the selection, I had no idea. I don't know the applicants, I don't know the - - -

20 And is that the truth?---It is absolutely the truth. Of course I found out at a later stage but not, not then.

Then on 10 November, I'm looking at the middle rows on page 4, there's an exchange of SMSs between you and Mr Stavis starting at 9.14 as it's recorded. Do you see that?---Page 4, starting at 9.29. Sorry.

30 Yes. Do you see the row of data commencing in respect of 10 November at 9.14 as its recorded here, but we've agreed that it needs to be read, if the information I've given the Commissioner is correct, as being an hour later? But leaving out, in this case, the difference in record of time when a call or an SMS commenced, there's simply three SMSs. You text Mr Stavis the day after the six SMSs or five SMSs and a call between you and Mr Stavis on 6 November. Why did you text him the next day?---He's probably asked me something which I come back to him about.

40 If you'd excuse me a moment. My attention's been drawn to something that I should have been able to work out for myself, and I apologise, Mr Khouri, but just looking at the entry for you making a call, I'm sorry, sending a text, that can be read perhaps as 10:14 on 10 November, 2014. But the two that are below it, you need to understand, aren't on a Vodafone, the Vodafone wasn't Mr Stavis's provider. And accordingly those times are probably accurate, whereas the 9:14 one needs to be read as 10:14. And if in fact, it was 55 seconds after the minute, then the first contact was an SMS by Mr Stavis to you because it was at 10:14:08. Then there was an SMS back from you – what's read here as 9:14:55 but it should be read as 10:14:55. Then there was an SMS back to you by Mr Stavis at 10:15:25. Do you understand that? So it's an exchange of texts.---Yes.

Probably, if we're reading it right, Mr Stavis texted you first, you texted him back, then he texted you back. Which is not terribly unusual, is it, in the way people communicate by text?---No, no.

What was that about?---I would be lying if I tell you that I remember any of this.

10 The next day there is more communication, more texts. You are recorded as making the first one, but in fact as we've now worked out, or I've worked out, you need to read your text at what is recorded at 8:15 as being in fact 9:15. I'm sorry, 8:35 as in fact being 9:35. Which would mean, again, Mr Stavis texted you first, you texted him back, then Mr Stavis texted you back.---Yep. Very clear.

What was that about? So this is three days in a row so far that the two of you are in communication with each other.---Yeah, yeah. I mean, it's very obvious.

20 It's quite a different picture, isn't it, from the picture you painted to us?
---No. The picture I painted was what I remembered now.

THE COMMISSIONER: But also the picture that you painted was that you weren't really interested in Mr Stavis or who got the job or whatever.
---That's true. I stick by that statement, Commissioner.

Okay.

30 MR BUCHANAN: And if he had been bothering you with texts day after day, you would have thought that was rather tiresome and you would have remembered it, wouldn't you?---No.

"The man kept on texting me," but you haven't told us that happened.---No, no.

That's because you're concealing the fact that he - - -?---No. Because I don't remember.

40 - - - and you were in regular communication on the dates indicated in this table. Isn't that the case?---No, it's not the case. I have to tell you that Spiro saw a bit of comfort in me, although - - -

I'm sorry?---Spiro saw a bit of comfort in talking to me. Okay, now that was - - -

When?---From day one.

When you say, "From day one," that makes it sound as if there was something that happened after day one. Day one, on what you told us, was

a meeting in George Vasil's office and then a meeting in the coffee shop over the road.---Yes.

And after that, nothing.---No. I didn't say nothing. I said as far as I remember, now this reminds me that, yes, he was calling and asking me questions.

But that's regular contact, isn't it, Mr Khouri?---Well, yes. Yes. the main thing is it - - -

10

How could you not have remembered that?---I couldn't.

It's because you were trying to conceal from the Commission the degree of communication with Mr Stavris that you were having at the time that he was considering being a candidate or was a candidate for the job of director of city planning at Canterbury Council. Isn't it?---No. I think I was being nice and trying to, trying to answer his calls and his concerns. But that does not mean that I, in any form or shape, am trying to conceal. I didn't know. Honestly, I forgot about this.

20

You didn't know we had the records, that would be an accurate statement. ---No, I didn't remember, even now we have the record, now you're asking me what is in those SMS, what did he tell you, I just can't remember and that's the truth.

You know now don't you that that communication didn't cease on 11 November either?---No, because it was - - -

30

You've looked over the page, haven't you?---Yeah, because, because it must have been insignificant that I forgot about it altogether.

40

But what can be insignificant about you being in regular communication with a candidate for the job of director of city planning when you've already acknowledged to us the importance of the role of director of city planning as you understood it to decision-making on council, particularly when it came to removing the constraints that you thought existed on developments such as Mr Demian's developments in Canterbury city. What's insignificant about it?---Insignificant is if you see all short period question and answers, probably wants to know what's happening, he wants to know what's going on, could be anything, really could be anything, and I always could say, look, I don't know, or I'll find out what's happening, SMS him back, he SS'd me back, he was obviously anxious and he saw in me a bit of comfort where he could – although I made it very clear to him and I repeat that I am in no form or shape promising you anything, it's not my call, this is a council matter, I have, I'm doing something I was asked to do, that's my end of it all. Now - - -

Why didn't you tell the man to stop bothering you?---Because I'm not rude, that's why.

You didn't have anything better to do than - - -?---I had a lot.

10 - - - respond to Mr Stavis's texts?---Mr Buchanan, you are 100 per cent, I have a lot of things to do, but my personality, I'm not a rude person, I'm a, I'm a person who always attempt and try to help people, that's my character, it's on record. Now, if Stavis wants to know something or he'll always try to call me, I'll tell him back, look, but I honestly and sincerely, obviously he was very anxious and making those, but they have to be very insignificant for him to - - -

Well, this is new information. You have told us now twice that Mr Stavis was anxious or very anxious. What was he anxious about?---Well, I assume all those phone calls, I mean you've got to be, as you said why didn't you tell him to bugger off or don't bother me.

20 Yes.---I mean obviously he's anxious. That's the reaction of a person who is anxious. Now, what he's anxious about I have no idea.

You have no idea?---No.

That cannot be an honest answer, Mr Khouri.---Well, why are you saying, why are you saying that, Mr Buchanan?

Because, and I already put to you - - -?---Yeah.

30 - - - your own evidence is you understood the position of director of city planning to be a very important decision-making job when it came to interests that you had an interest in, which is the removal of constraints on development in the city. You understood it to be a very important job. ---I, I, I don't think that I have an interest to remove those and you really have to ask the consecutive directors of planning that has Bechara Khouri came to you and ask you to do anything, or any councillor for that matter, or the general manager for that matter. It is - - -

40 But things have changed at council, haven't they?---What do you mean, changed?

Well, there's been an amalgamation.---Yes.

There's been a turnover of senior staff?---Yes.

Been a turnover of general manager?---Yes.

Been a turnover of councillors with one exception?---Yes, yes, yes.

Things have changed, haven't they?---Yes, they have changed.

Yes.---And then you could go to now the new Canterbury-Bankstown Council and ask them has Bechara Khouri been here to see you, I know them all, has he asked anything. This is how I do business and, and those calls would make no difference to the way I function, Mr Buchanan.

10 Mr Khouri, what these calls are evidence of is you being in regular communication with Mr Stavlis at the time that he was considering and becoming a candidate for the job.---Well, it's - - -

That's right, isn't it?---It's more like he has been in regular communication.

Were you providing him with backing, the backing that you thought he needed?---I don't think so.

Did Mr Vasil provide Mr Stavlis with backing, the backing that you thought Mr Stavlis needed?---Maybe. I don't know. You've got to ask George.

20 Well, what are the circumstances in which you came to meet him in the first place, Mr Stavlis?---George, George relation was council and councillors are different than mine.

No, no, I'm talking about his relationship with Mr Stavlis?---I don't, I have no idea what's, what George did or tried to do, no idea.

30 THE COMMISSIONER: You didn't ask him when you just, the coincidence of turning up at his office and Mr Stavlis is there? You didn't ask him about his relationship with Mr Stavlis, why he was interested in Mr Stavlis, why he was talking to him?---He told me that Mr Stavlis is being recommended to him by a friend and he mentioned Nick Katris. Now, I said that before, Commissioner, and it was very straight forward. I mean, what I, what I wanted to know, and - - -

But recommended by a friend, that's fine?---Mmm.

But why, did Mr Vasil explain why he was dealing with Mr Stavlis?---I don't know. I really can't answer that.

40 MR BUCHANAN: Mr Khouri, I'd like you to take into account an extra piece of information?---Yes.

I'd like you to assume that the date on which the interview panel at Canterbury City Council convened to interview candidates for the position of director of city planning was 17 November 2014. These dates were days shortly before that interview, aren't they? 6 November, 10 November, 11 November, 12 November, have you seen all the texts on 12 November?---12 November?

That's five days before the interview.

THE COMMISSIONER: Page 5?---Yeah. Yeah. There is.

MR BUCHANAN: And what I'd ask you to also assume is that the date on which Mr Stavis applied for the position was 25 October 2014. Which means that he was a candidate and knew he was a candidate and knew he needed to prepare for the interview that took place on 17 November?

10 ---There was only one call on 5 November.

I'm asking you about days a bit closer, if you don't mind?---Yes.

Looking at page 5, we've already gone through, there's a string of texts on 12 November, then there's one Mr Stavis called you on 13 November, four days before the interview for a short conversation. Do you see that?---Yeah.

Then if you go over the page- - - ?---Mmm hmm.

20 - - - the next day, 14 November, he calls you again. It's a short conversation. We're getting very close to the date of the interview panel convening?---When was the date of the interview panel?

I told you it's 17, and that's the very next date which is highlighted, isn't it?---Yeah.

Looking at page 6?---There is about one, two, three, four, five, six, seven, eight, nine exchanges.

30 Yes. What happened, Mr Khouri, in those exchanges on the day that the interview panel convened? How come Mr Stavis was calling you, how come, or texting you, how come you texted him?---Is it possible to obtain the context, context of the text?

You don't remember any degree of communication with Mr Stavis. Is that what you're telling us?---I am telling you that.

You have no recollection of any of this whatsoever?---No - - -

40 That is just impossible to accept?---Well, I even, I even didn't know the interview days.

I want you to understand, Mr Khouri, it is impossible to accept that as truthful evidence?---Well, Mr Buchanan, I would not lie to you and tell you a fib. I did not - - -

And if it's not truthful evidence, what it means is that you're trying to conceal from the Commission the true nature of your relationship with Mr

Stavis at the time that he was a candidate for the job of director of city planning at Canterbury Council, doesn't it?---No, that's not true.

I note the time, Commissioner. Commissioner, just give a moment and I'll just try and give you an estimate.

THE COMMISSIONER: Yes, definitely. Thanks.

10 MR BUCHANAN: I wouldn't finish in half an hour, Commissioner. As much as I would like to. It would probably be about three quarters of an hour, and I think that's too much to ask. I mean, if it's a matter for the Commission of course but it's a bit much to ask.

THE COMMISSIONER: No, look, I think we'll finish today, now. Can I just explain, Mr Stanton has an issue - - -

MR BUCHANAN: A serious commitment.

20 THE COMMISSIONER: A serious commitment tomorrow and Friday which you've informed us about.

MR BUCHANAN: We accept that, Your Honour.

MR STANTON: Very grateful, Your Honour.

THE COMMISSIONER: And we obviously can accommodate you.

MR STANTON: Thank you very much, Commissioner.

30 THE COMMISSIONER: In respect of that, what I'm going to suggest is we'll look at the witness list but maybe if Mr Khouri could come back on Monday.

MR STANTON: Yes, certainly, Commissioner.

THE COMMISSIONER: Is that suitable?

MR BUCHANAN: Yes, Your Honour.

40 THE COMMISSIONER: Good. Now that means we'll have a little bit of revamping of the witness list after we finish today and it will be posted on the website. All right. Any other matters that anybody needs to raise at the moment?

MR NEIL: Commissioner, could I just raise the, there could be some difficulties if my client is due today, now tomorrow, we're interposed. I'd ask that the orders between my client and Mr Khouri remain as it is so that my client be called after Mr Khouri is finished.

THE COMMISSIONER: Why?

MR NEIL: Even though it means going over to next week.

THE COMMISSIONER: Why in particular?

MR NEIL: Well, firstly, there's been a considerable amount of mention of my client on the part of this witness, and I don't know how much more is yet
10 to go. There may, there's got to be three quarters of an hour, and there's a
considerable amount of mention of my client, although far less than other
personnel, in this document that we just received, and there be a real risk,
one would have thought, I can't say for sure, that my client would have to
give evidence this week and then come back again after this witness is
finished. Now, I didn't know about Mr Stanton's difficulty, I just assumed
that this witness was going to go on until tomorrow and then we continue.
Mr Katris, and then my client, that was what was foreshadowed on the list,
but I would not want my client to be in a position of having to come and go
and in and out when we originally expected that this witness would be
20 finished by the time Mr Vasil would give evidence, and I would ask that
attention be given to an appropriate revamp but to take into account the
relative timings of this witness and Mr Vasil. We'll fit in, we'll come
tomorrow and we'll come next week and we'll do what the Commissioner
says, but in the circumstances there would not seem to be any prejudice to
anybody if our request was met, because we'll come next week.

MR BUCHANAN: Can I make a submission on this, Your Honour?

THE COMMISSIONER: Yes.

MR BUCHANAN: Just to indicate our position. We would respectfully
30 submit that Mr Neil's request can be accommodated, simply in order to
ensure that the rest of the witnesses for this week can be dealt with and
although there is a small risk that we might finish a little bit early tomorrow,
nevertheless, in all circumstances, we have no objection to the request
which Mr Neil makes.

MR NEIL: I'm obliged to my learned friend, Commissioner.

THE COMMISSIONER: And on that basis, tomorrow will probably be Mr
40 Katris, Mr Robson, excuse me, and Mr Manoski.

MR BUCHANAN: Yes.

THE COMMISSIONER: All right. But we'll confirm that with a list put on
the website.

MR BUCHANAN: That's right, Your Honour.

THE COMMISSIONER: All right. Now, Mr Khouri, you're not excused, you're stood down. We anticipate it will be Monday when you have to come back.

MR BUCHANAN: If that changes, that is to say if we would like to call Mr Khouri on another occasion, we'll obviously be in contact with Mr Stanton to negotiate a suitable time.

10 THE COMMISSIONER: Yes.

MR STANTON: Thank you very much, Your Honour.

THE COMMISSIONER: All right. We are adjourned until tomorrow morning at 10 o'clock.

THE WITNESS STOOD DOWN [4.05pm]

20

AT 4.05PM THE MATTER WAS ADJOURNED ACCORDINGLY [4.05pm]