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INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC  
COMMISSIONER

PUBLIC HEARING

OPERATION DASHA

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 18 JULY, 2018

AT 9.30AM

Any person who publishes any part of this transcript in any way and to any person contrary to a Commission direction against publication commits an offence against section 112(2) of the Independent Commission Against Corruption Act 1988.

This transcript has been prepared in accordance with conventions used in the Supreme Court.

MS MITCHELMORE: Yes. Commissioner, we start this morning with the evidence of Mr George Gouvatsos.

THE COMMISSIONER: Mr Gouvatsos. Now, oath or affirmation?

MR GOUVATSOS: Oath.

MR MOSES: Yes, Commissioner, I've explained the terms of section 38 and, as I understand it, the witness wishes to take the advantage of the section 38 direction.

10 THE COMMISSIONER: All right. You've probably been here, I think you were here yesterday afternoon. You probably heard me say that the protection doesn't include if you gave false or misleading evidence to the public inquiry. If you did, you may be prosecuted for a serious offence under the ICAC Act.

Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by this witness during the course of the witness's evidence at this public inquiry are to be regarded as having been given or produced on objection and there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.  
20

**PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY THIS WITNESS DURING THE COURSE OF THE WITNESS'S EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**  
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MS MITCHELMORE: Thank you, Commissioner. Your name is George Gouvatsos?---Yes.

And what is your current occupation?---I am a coordinator, I am a town planner but I am a coordinator at the new council, Canterbury-Bankstown Council, of planning.  
40

And before Canterbury-Bankstown Council was amalgamated, were you employed by Canterbury City Council?---Yes, that's right.

And was that in the role of manager (development assessments)?---Yes, that's right.

And is it the case that you commenced with Canterbury City Council on 1985?---That's right.

And you were appointed to the role of manager (development assessments) in around 2000, is that correct?---That's right.

Can I ask you, Mr Gouvatsos, you made a statement to investigators in this matter, dated 14 June, 2017, is that right?---Yes, that's right.

10 Can I provide you with a copy of your statement just so you have it and if you need to refer to it at any time, please do so.---Thank you.

Can I also show you a document, Mr Gouvatsos, which I have here. Mr Gouvatsos, you'll see that it's headed City Planning as at April, 2015. Do you see that?---Yes.

And appears to set out the structure of the city planning division as at April, 2015?---Yes.

20 Does that document accord with your recollection of the structure of the city planning division of Canterbury City Council as at April, 2015?---Yes.

Commissioner, I tender that document.

THE COMMISSIONER: The organisational structure of city planning of Canterbury City Council as at April, 2015 will be Exhibit 146.

**#EXH-146 - ORGANISATIONAL CHART OF CITY PLANNING FOR CANTERBURY CITY COUNCIL AS AT APRIL 2015**

30 MS MITCHELMORE: The Commission, please. Mr Gouvatsos are you able to describe in general terms the work of the development assessment branch within the council in the period 2014-2016 before amalgamation? ---Yeah. Generally the two main roles that the development assessment team that I looked after was doing development assessments of applications, DAs, and also construction certificates in terms of the building side of things, from assessment of building certificates and, and inspections so, and they were the two key things that we were doing in terms of development assessment.

40 So just looking at the document I've just shown you, Exhibit 146, and your name appears about the middle of the page, manager development assessment, there's your name George Gouvatsos and underneath there appears to have been three branches, one was planning, which is on the left-hand side. So that is the team that dealt with assessment of development applications. Is that right?---That's right.

The next branch was assessment and certification. Is that the team that dealt with building certificates and the like?---That's right.

And the third team on the right-hand side was development assessment operations and is it the case that that team dealt with technical aspects of development applications like engineering, waste, that kind of thing?---Yes, that's right. That was essentially like a supporting team that supported the other two branches. But yes, that was mostly all the technical, the admin were in that team there.

10

Thank you. And how many officers did you manage in total in that period 2014-16?---All together it probably would have been, with a full complement about 28 it would have been, yeah. But obviously there was, there were vacancies during periods, various periods during, during that time.

Yes. So if you had a full complement it would be 28 but often there was less than that given attrition over time?---That's right.

20 Just focusing on the planning team. The team leader in the period 2014-16, did more than one person hold that position at various times in that period? ---Yeah. Essentially during that period it was Steve Pratt was, was the team leader for the majority of that period but then Steve resigned. It was around August, '15.

Yes.---And then the other, Andrew Hargreaves was the team leader of development assessment operations.

30 Yes.---So essentially what happened there Andrew undertook both roles so he was doing both actually at that time because we hadn't, we hadn't replaced the team leader (planning) so Andrew was effectively acting team leader (planning) and team leader (development assessment operations).

And how long did he do that for to your recollection?---He probably, he did it from about August, '15. We didn't end up replacing that position and the amalgamation has happened in May, '16 so during that whole period Andrew was, was sort of acting.

40 Acting in that position - - -?---That's right.

- - - of both team, team leader of both branches?---That's right.

Thank you. And just again looking at this, looking at Exhibit 146 it appears you had a, looking at the planning team a number of senior planners and then planners. Is that right?---That's right.

And did you require the planning and, planners and senior planners to approach you through the team leader or would you meet with them directly

as required?---Generally it was with the, if we met we met with the team leader. That was, that was how I, I would operate. However, you know, in saying that I, I was, I was open to, to a senior planner coming and approaching me about a particular matter that they wanted, you know, some direction but if we were to sit down and have a discussion about some, about a position it would have been with the team leader being in attendance.

10 All right. And you in turn reported to the director of city planning. Is that right?---That's right.

And for a part of this period till the end of, it might have been November, 2014 the director (city planning) was Mr Marcelo Occhiuzzi. Is that right? ---That's right.

And then from about February/March, 2015 it was Mr Spiro Stavis. Is that right?---That's right.

20 As manager of development assessments, what was the general level of your involvement in individual development applications?---I didn't actually do any assessment of development, I didn't have like a caseload, my responsibility I suppose was to, to look at managing the process and ensuring that, you know, applications were, were, were processed and, and, and determined in a, in a timely manner, so I didn't actually have a caseload, if that's what you're asking me.

Yes. So it's the case that the planners and perhaps senior planners were allocated particular applications for assessment?---That's right.

30 And they could liaise with the team leader and through the team leaders with you if necessary in relation to applications as they, as they arose. Is that right?---That's right.

And is it the case that the team leader could approach you at any time if necessary?---Yeah, absolutely, yeah.

40 And how is it that you were kept in the loop as to the progress of applications?---Well, with the team leaders, we would, we would sit down and go through – they would actually go through on a, on a weekly basis with their, with the planners and just ensure that applications are progressing in a, in a timely manner, and then we would sit down, we'd have meetings with the team leaders who would then discuss those applications with me as to how they were going, particularly if there's ones that are, that have been causing, you know, delay and there's, there's issues there with regards to referrals to other departments, or just in general to try and sort of work out whether there needed to be my involvement with, with trying to ensure that the applications are, are not being caught up in, in the process for various reasons.

Were there particular categories of development application that you kept a closer eye on than others?---I, I guess it was applications that were, where there was councillor involvement I suppose, you know, larger applications, yes, I certainly had a more, a more involvement in terms of, of, of the progress of those applications, yeah.

10 So you've mentioned large applications and councillor involvement. Were they often one and the same, there was often councillor involvement in larger applications?---Yes, yes, around that time, yeah.

Around that time, 2014-16?---Yes, that's right.

Was it the case that there was also councillor involvement in smaller applications?---Yes, yes, there were, there were.

20 And is it the case in relation to those smaller applications that you would also keep a closer eye on those?---Yes. When a councillor, a councillor made an inquiry and, and it came through, then I would need to prepare a response as to the status of that application, or, you know, the, the path, the timing and determination, so as part of that process obviously I had to, I had to work out or had to work out where that application was up to, so that could be from a single dwelling, you know, or a, or a carport, to, to a mixed-use development or a large, a large sort of six-storey development, yeah. That was my role during that course.

30 Are you able to recall in this period 2014-16 in relation to councillor involvement, were there particular councillors who asked more or made more inquiries of the development assessment team than others in that period?---Yes, yes, there were, yeah.

Okay. Are you able to tell the Commission who most frequently made inquiries?---Yeah, Councillor Hawatt and Councillor Azzi were, were quite active in terms of some of those inquiries that were coming through, yes.

All right. But other councillors would make inquiries from time to time? ---Ah, yes, yes, that's right, they did, yeah.

40 But by comparison they made less inquiries than Councillors Hawatt and Azzi. Is that right?---Generally, yes.

Is that by a substantial margin?---Well, yeah, it's hard to, it's hard to tell, but yeah, look, it wasn't substantial though, but certainly those two councillors did have a high level of inquiry, yeah.

All right. Now, can I just take you to paragraph 5 of your statement. You indicate that as manager of development assessment you generally reviewed

all assessment reports that go before the City Development Committee of the council. That's just the first sentence of paragraph 5.---Yes.

And is it the case that if there were issues arising in the preparation of those reports, those matters could be raised with you directly or again would those issues come through the team leader?---They could be raised with me directly. And the reason I say, I, I, I had a pretty open sort of approach to, to, to the planner coming to see me about matters, so it would, it would be both through the team leader and also, you know, senior planners or even  
10 the planners would, would come and discuss issues with me where they thought that I needed to sort of become involved or they sought my, my input or my guidance on it, on that matter.

And it's the case that you attended meetings of the City Development Committee, is that right?---Yes.

It was your practice to attend those meetings?---Yes.

All right. Now, in terms of your role as manager of development  
20 assessments, how would you characterise the level of your direct interaction with the general manager, Mr Jim Montague?---I, the only interaction I would have, the general manager would contact me occasionally, particularly if I was, well obviously if I was acting, there were periods there where I was acting director, but generally the, the general manager would go through the director with an enquiry. Occasionally it would come through to me if he couldn't get access to the, to the director for whatever reason. I'd receive a call or I'd receive a, an email to, to look into a matter.

All right. But generally any queries from the general manager would flow  
30 through whoever the director was at the time, is that, that the common practice?---That's right.

And did you attend, have cause to attend many meetings with the general manager in 2014-16?---Only, no, only, only when I was acting, in the periods that I may have been acting. No, but not as a matter of course, no.

And outside of your attendance at meetings of the City Development Committee, which I might shorten to the CDC, did you have much direct interaction with councillors?---I, the only contact I had obviously at the City  
40 Development Committee meeting, at the CDC meeting. If we had any onsite inspections, I'd attend the onsite inspections. The councillors also could contact me as the manager to, to seek guidance on an enquiry, right, so I would, there, there would occasionally be – again, if they couldn't get on to the director, they would then contact me directly for, to get a status of an application or some, some clarification on matters, yes.

But it was in the event that they couldn't contact the director, is that right?---That's right, yeah.

Yes. Can I ask you some questions, Mr Gouvatsos, about Mr Occhiuzzi. What was your general level of interaction with him in the period, really 2014 through to his resignation?---I reported to him. I would have probably dealings with him every day. You know, we sat sort of two offices away. So, yeah, I had a, a, a sort of pretty much, a, a, a, a, quite a close contact with him with regards to various matters.

10 Yes. And what was your assessment of his level of knowledge of DA concepts and issues?---Yes, look, I found Marcelo was, was quite competent in terms of his, his knowledge and his application of, of – particularly Marcelo had a really strong strategic planning background but obviously he, he was quite broad range in, in terms of his skills and, and how he applied them. I found him to be quite measured in his approach in, in dealing with development assessment matters.

And what was your assessment of his general approach to the assessment of development applications in terms of dealing with applicants for development and approaches to the assessment of applications?---Marcelo  
20 became involved, I guess, when things came from a councillor or through the general manager, that there was, you know, a need for him to, to, to make an enquiry or to, to arrange a meeting but, so generally it was only through those enquiries that Marcelo would, would become involved or make enquiries about an application, yes.

THE COMMISSIONER: You described it as he was measured in his approach. What did you mean by measured?---I guess it meant that he, he was quite considered in terms of before he made a decision. Just in terms of being, he balanced in, in sort of his approach was balanced in that he would  
30 take both sides and then sort of come to a, to a consensus with his position. Yeah. That's, that's how I found him.

MS MITCHELMORE: And in terms of his interaction with you and other members of your team, did he have a consultative approach in terms of before he came to the decisions of which you speak?---Yes. Very much so, yeah. He was always sort of seeking to try and get to a consensus and generally would, did get to that.

40 And did Mr Occhiuzzi ever raise with you in 2014, the subject of turnaround times for development applications?---Yes, it was, it was, there was a concern there about the delay in applications taking such a long time. So, we, there were discussions that, that we had not only with me but it was sort of, we had you know, development assessment team leader meetings on a regular basis which Marcelo attended and it was generally at that, at that forum there.

So, he would raise the subject of delays in turnaround times, is that right?

---Yes, and also just looking at ways that we could try and improve those processing times.

Did Mr Occhiuzzi ever raise with you in that period 2014 that he was coming under pressure to deliver shorter turnaround times?---Generally in the discussions, yeah, it was, it was that there was a, a feeling that we were delaying applications. We're not taking, we're taking too long rather so yeah, in that, in that discussion Marcelo would raise that and, yeah, that there was concerns about the time taken.

10

And did he indicate from whom the concerns were being expressed that he received?---I think it was just, you know, coming from the general manager, just a general sort of discussion that we needed to improve our processing times because there was a feeling they were taking too long.

So the fact that it was taking too long was the focus as opposed to what the outcome of the development applications was?---Yes, yes.

Can I ask you some questions about Mr Stavis. Again, what was your sort of general level of interaction with Mr Stavis?---Again, I sat two, two, two offices away from him. There was, generally I had a daily interaction with him. Again, the same sort of, sort of process whereby certain inquiries that would come through I would have to, have to research where they're up to, prepare a response and then, and then put that back through to, to Mr Stavis.

20

Yes. And how would you characterise your working relationship with Mr Stavis?---Look, I had a good relationship with him. I didn't have a problem. I, I supported him in, in the position that he was at as I did with Mr Marcelo.

30

Yes. And what was your assessment of Mr Stavis's level of knowledge of DA concepts and issues?---Look, Spiro had a very good development assessment, had very good development assessment skills because he had, from my observation he had gained a lot, a lot of those skills from, from being a consultant for a number of years and therefore he had a wide range of exposure to different council Development Control Plans and different council positions. So I thought, and he was very confident in terms of how he applied those skills. That was, that was my observation of how, how he, what he brought to, to the development assessment team.

40

Yes. And what were your observations of his general approach to assessment of DAs?---I'm not sure what, what do you mean? I just, yeah.

Well, in terms of his level of involvement in applications, interaction with applicants, things of that nature.---Yes. Look, Spiro did have a high level of involvement with applicants to the point that I guess even the planners that were dealing with some of these applications sometimes weren't involved to the process of the detail because if an applicant, if Spiro became involved

and, and had interactions with the applicant that kind of took on another level in terms of, of just how the application was then managed.

Did you see that as problematic in terms of the management of the assessment process?---Yes, yes. I, I did have some concern because obviously the assessment officer and myself were sort of taken out of the, the sort of direction that an application may have been taking.

10 Yes. You described Mr Occhiuzzi's approaches as measured and you elaborated on that with the Commissioner. Would you describe Mr Stavis's approach in the same way?---I think Spiro had a, in terms of his application of development assessment skills he was quite confident with regards to that. He also had a very, we wanted to process applications, we wanted to sort of, you know, improve the processing times and, and move things through so there was certainly a, a position to try and get these applications progressed through quickly. Well, in terms of measured well, look, I think he, he was confident in terms of his application of assessment skills so that came across that I think we should be doing this, right. And so in that regard he probably was much more confident in applying those skills, yeah.

20

THE COMMISSIONER: When you answered my question you used words in respect of Mr Occhiuzzi "balanced and would take both sides to try and reach a consensus". Would you use similar words to describe Mr Stavis? ---Not, not to the same degree, no. That's right.

MS MITCHELMORE: And was your relationship with Mr Stavis such that you felt you could challenge him about his views about particular development applications?---Yes.

30 And similarly he could challenge your views?---Yes.

And generally is it the case you were comfortable that in such exchanges you were both acting consistently with your roles as council officers in assessing proposals on their merits?---Yes.

40 And did you ever have any exchange with Mr Stavis in relation to a development application as a result of which you didn't consider that he was acting consistently with the role of council officers to assess proposals on their merits?---Oh, we had a difference of opinion with regards to certain applications, if that's what you mean. Like in terms of, you know, I, I felt that certain, that I didn't, I felt that certain applications couldn't be supported and I expressed those views to him, as did others, and, but from there on he, he would then take a particular position, right, and that wasn't consistent with what, what I was, was, what my position was.

And in him taking a different position to you, did you feel that his positions were justified on the merits?---Yes, on the, look, he, he, he obviously had, in his mind he thought that that was able to be supported, right, so he took that,

his opinion was that that was something that he could support, even though it was a difference of opinion from mine, if that's what you mean.

And did you consider, looking at whatever decision he took, that it was a decision that was based on merit, your view of the decision that he ultimately took where you had a difference of opinion?---What do you mean, on his, he, he put, his merit, is that what you mean, sorry?

Well, I think you've indicated to me that - - -?---Yeah.

10

- - - you might take a different position to Mr Stavis in relation to particular applications, and you're obviously taking a position on the basis of your assessment of the merits of the proposal. Is that right?---That's right.

And when Mr Stavis differed to you in his view, could you see a rationale behind Mr Stavis taking that decision, that was based on merit?---Not always, no.

20

All right. Were there any particular applications that you can think of where you didn't consider that it was merit-based?---Well, I just thought the 212 Canterbury Road proposal, I thought that that was a big stretch in terms of, of, of the, the height control, so I didn't think there was enough justification to be able to vary something like that.

Yes.---But the process is also that you're weighing up different, different parts of the considerations, right, so the weight that you put on these things varies in terms of your opinion as part of that process.

30

Yes, of course, yes. Did Mr Stavis, I think you've already indicated this in your evidence, raise the issue of turnaround times for development applications in 2015-16?---Yes.

40

And what can you recall him saying to you on that subject?---Well, I guess it was, there was a discussion about, and again it was at our team leader meetings where we had meetings involving the director and myself and the team leaders, just in regards to trying to look at ways of trying to improve our processing times. That was, you know, operational issues, it could have been, you know, just how we're dealing with referrals and, and just a general discussion of always looking to try and improve the way that we, we process applications.

Did Mr Stavis ever tell you that he was coming under pressure to deliver shorter turnaround times?---Yes, I guess in terms of, of, of processing applications and progressing these applications in a, in a quicker way, yes, yeah.

Did he indicate at all where the pressure that he indicated he was coming under for shorter turnaround times was coming from?---Well, it would have been from the general manager.

But you can't specifically recall him saying anything to that effect?---No, no, not, not - - -

10 All right. As best as you can recall – I'm sorry, I withdraw that. Did you ever directly witness or were you ever involved in discussions with Mr Stavis or Mr Occhiuzzi and other council officers on the subject of a development application in which statements were made which to your mind involve pressure being brought to bear on council officers for a particular outcome?---No.

Did you ever directly witness or were you ever involved in discussions with Mr Stavis or Mr Occhiuzzi and councillors in which statements were made which to your mind involved pressure being brought to bear for a particular outcome?---No.

20 Did you hear of any instances of such conversations from other council officers?---No.

Mr Gouvatsos, I wanted to just ask you some questions about a number of different developments and development applications. The first of those is 51 Penshurst Road, Roselands. There was a development application lodged in February of 2015 for demolition of an existing structure on that site and construction of 12 townhouses with a basement car parking, and originally the development application was approved with a deferred commencement condition. Do you recall that? And that related inter alia to drainage, stormwater drainage?---Yeah. I don't recall the details of it but I'm, but I'm aware of it, I've become aware of it, yes.

30 Yes. And the deferred commencement condition stipulated that the applicant needed to, in effect, obtain an easement from people downstream in order to effectively facilitate drainage of stormwater. Does that accord with your recollection?---Yes, that's right, yes.

40 Can I take you to volume 7 of Exhibit 52 and page 15. You'll see, Mr Gouvatsos, that there are two emails on the page. One is an email from, you'll see at the bottom of the page, Councillor Hawatt to Spiro and you'll see the subject in the first of the emails at the top of the pages, "51 Penshurst Road, Roselands," raising a, a query about having waited for over a month about stormwater response and you'll see that Mr Stavis has forwarded that to you saying, "George. Story, please?" Do you see that? ---Yes.

And is that an instance of what you've earlier given evidence of where a councillor might raise a query, that's generally raised with a director and the director then feeds it down the line to you as the manager, is that right?  
---Yes, that's right.

And then if you look over the page at page 16, you'll see that you have sent the query on to Ms Jade Sheaperd, is that right, and Paul Richardson?  
---That's right.

10 And also to Mr Hargreaves, asking for a response to that enquiry.---That's right.

So again, consistent with your earlier evidence that you would then liaise with responsible council officers to get a response to the query to then enable Mr Stavis to respond directly to the councillor, is that right?---That's right.

And are you able to recall generally how many information requests the assessments team would receive from councillors on a weekly basis?  
20 Around this time I'm talking.---Well, we used to get three or four on a daily basis. So, that was yeah, there was a period, well, yeah, there was period that, during that period particularly there was three to four councillor enquiries that would come in every day, and part of the role, part of my role and, and the, the requirement was that we had to give a response back within two days. So, it was quite challenging to try and, and, and you know, assemble the information, find out where it's up to, assemble the information and then, and then feed that back through the director within those time frames with those numbers that were coming through.

30 And in terms of the two-day turnaround time, was that a policy or a practice?---I guess it was a practice, yeah, but it was a direction, though, that came from the director and it, it, it's been a longstanding one as well. So, you know, it was, it was the same when Marcelo was there. So, it wasn't new.

Yes. All right, thank you. And you'll see that at page 18, Mr Stavis had responded to Councillor Hawatt on 12 May, so that's the day after receipt of the enquiry initially, and was that generally consistent with the time frame in which councillor requests would be responded to?---Yes. And, and that,  
40 generally that wording there was, was what I was assembling, that information was being, I, I would put that information back through to, to, to the director and then he may add generally, wouldn't, he hadn't, hasn't, generally wouldn't have added anything more than what I've submitted for that then to be put, put through to the councillor.

So, you in effect prepare the response that he can then in effect cut and paste into his own email to respond to the councillor?---That's right.

And you'll see in Mr Stavis' email, which is 12 May at 3.48pm, page 18 of volume 7, that there's a reference that Mr Stavis has referred the enquiry and advised, "We've spoken to the development engineer and have prioritised this referral to allow for the applicant to address any stormwater issues that arise." And I think you've said in your statement at paragraph 10, that that wasn't unusual. Is that right?---That's right.

That some form of priority would be given where a councillor has made a request about a particular application?---Yes, that's right.

10

All right. Can you recall that after the council approved the DA on a deferred commencement basis that the owner raised an issue with difficulties he was experiencing obtaining the easement?---No, I don't.

You don't have a recollection of that?---No.

20

All right. Can I just show you page 69 of the same volume. You will see that it's an email, again in a similar format to the one I've just taken you to, where it's an email from Councillor Hawatt which is about 51 Penshurst Road, Roselands re storm water pump out connection, can you see how to help. And again Mr Stavis has forwarded that to you on 3 August and again this is a similar type of system. It's the same system basically to what we canvassed in relation to the earlier query on 11 and 12 May?---Yes, that's right.

30

And you can see over the page that there is a response from Mr Stavis on the next day and you've been copied into this message and I think you've indicated in your statement that he may have obtained that information directly from the engineer but that wasn't unusual for Mr Stavis to go directly to officers if he wasn't obtaining a response from you. Is that right?---Yes, that's right.

40

And insofar as you obtained these responses, was your level of involvement in the particular DA at that point at an end until such time as you might receive another inquiry or liaise with the officers and team leader in respect of the application if needs be?---Yeah, that's right. That was generally the position there. It was only if you need, I mean I'd assemble the information and work out where it was up to. If it needed to be, you know, if it was, it was being caught up somewhere and I needed to get involved to try and sort of, you know, unstuck, unstick it rather, for lack of a better word, then I would do that and then provide that response until, if another matter then came up I would then become involved again. That's right.

So in this case there was a query about the storm water, the pump out using that system instead of a drainage by gravity but in terms of the ongoing assessment process that was not a matter in which you were involved?---No, because the engineers provided a response saying that you can see the plans. They're going to assess them and come back with a position so, yeah, that

was, and it was really, in this particular case it was the development engineer's opinion that was being relied on so, yeah, I didn't think I needed to become involved with it any further.

10 All right. Thank you. Can I just ask you, at page 165 of this same volume you will see that there's an email, this is 19 November, 2015 at the bottom of the page from a Vasili Conomos of Conomos Legal and its subject heading is 51 Penshurst Road, Roselands and attached a letter on behalf of the owner of the site, Mr Talal El Badar with some background documents relating to the difficulties in obtaining the relevant easement and the email from Mr Stavlis at the top of the page says, "George, can we meet asap please internally Millad should attend as well."---Yes.

Do you recall attending any meetings with Mr Stavlis at or around this time about the modification application?---No, no.

20 If the director's requested that you meet asap internally is it the case that it's likely that there would have been a meeting?---There would have been a meeting but I would say what's happened is I haven't organised that meeting. It obviously has occurred but I haven't organised it Millad, with Millad who was the development engineer looking after that, that project at the time.

So you have no recollection of attending any meetings - - -?---No, I didn't attend a meeting, no.

Around this time. Okay. All right. I wanted to ask you some questions now, Mr Gouvatsos, about 23 Willeroo Street, Lakemba.---Yes.

30 So I've finished with volume 7. Can you recall that there were proceedings commenced in the Land and Environment Court in relation to that site in August of 2015 on the basis of a deemed refusal by council?---I don't recall it, but I have become aware of it subsequently.

And I understand that you were present in the course of yesterday, is that right, at the Commission?---Yes.

40 So you heard Mr Hargreaves giving some evidence about 23 Willeroo Street.---Yes.

Yes. And can I take you to volume 6, yes, volume 6, and I just wanted to ask you to go to page 8. You'll see at the bottom of the page there's a councillor query, it's come from Councillor Hawatt, asking to know about the issues. This is before the class 1 proceeding was commenced. This is around 27 July. And you'll see that Mr Stavlis responds to Councillor Hawatt on 27 July somewhere near 9.30pm. It's copied to you. Is it the case that Mr Stavlis would generally copy you into correspondence with

councillors where you've responded to a query or the query has been dealt with by you?---Generally, yes, that's right.

Yes. And can I ask you about, there's a paragraph about halfway down the email which says, "I acknowledge that the site is located between two residential flat buildings and therefore compliance with council's DCP controls, especially in relation to setbacks, may not be appropriate in the circumstances and therefore a merit-based approach is probably more appropriate, subject to satisfactory justification which includes addressing relevant case law." Are you able just to indicate what you understood Mr Stavis to mean where he was suggesting that a merit-based approach is probably more appropriate?---Yeah. I guess he was trying to say that the site was isolated in that it was, it didn't meet the minimum 20-metre requirement, it was a 15-metre site with two, two, two blocks of units adjacent, so in order to meet the required setbacks, that may not be achievable. So in looking at how we deal with such situations you would look at say if it was, if it was to have an increased setback, in other words, it was closer to the boundary, you'd look at the merits of it in terms of maybe the treatment of the building, the windows that are facing, the privacy issues, overshadowing. So, so if we were to give a variation on that, but you'd look at the merits of how the proposal's been designed to overcome that to still meet the objectives of that setbacks. That's, that's what I would say is, is what's been tried to explain there.

I understand. So it may be that you can't physically comply with the setback requirements under the DCP, is that right?---That's right.

But you might still allow the project to proceed, subject to whether or not the design of the building is consistent with the objectives behind the setback requirements. Is that right?---That's right.

All right. And now I just want to show you just for your information page 24, you'll see that there was an application in the Land and Environment Court that was filed by the applicant for the DA.---Yes.

And following the commencement of the proceedings do you recall that Mr Hargreaves was the council officer that was instructing in the proceedings? ---Yes.

And did he do that in his capacity as the team leader of the planning division at that time?---Yes, it would have been, it was back at that role where he was doing the dual role.

And you'll recall at least from Mr Hargreaves's evidence yesterday that there was a number of conciliation conferences and a number of sets of plans were provided in the course of that. Were you involved in any review of the drawings and plans in the course of that process?---No.

Did there come a point to your recollection where Mr Hargreaves on behalf of the council instructed the solicitors to terminate the conciliation conference and proceed to a defended hearing?---Yes, Andrew did speak to me about that position, he conferred to me to say, look, this is where we're at, and we should be terminating, terminating the 34 process to go to a defended hearing.

Yes. And did you agree with his views at that time?---Yes, I did agree, yep.

10 And can I just show you page 125 of volume 6. Can you recall whether Mr Stavis was on leave for some part on January, 2015?---Yes.

And is it the case you were acting in his place at acting director at that time?---Yes, that's right.

And would that ordinarily occur when Mr Stavis was on leave, that you would act in, in his place?---Well, it would either be myself, but there are two other managers as well, so it would be either myself or, or, I think at that time Gill Dawson might have been the other, the other manager and  
20 then there was also the regulatory services manager. So, one of us, one of the three would, would actually be acting, yeah.

And you'll see that Mr Stavis, this is 20 January, he's forwarding an email from Mr El Badar, who was the applicant for 23 Willeroo Street, which put Mr Stavis on notice of the termination of the section 34 conference and Mr Stavis forwarded that to you asking you what, what the story was and in the last – and explaining that he had met with the application on a without prejudice basis and they'd effectively agreed a position and that the  
30 sentence, the last sentence, "Please find out what's going on and fix the issue." What did you understand Mr Stavis to be requesting there?---Look, I'm not sure. Fixing the issues, I, I guess he was just trying to find out what the situation was. You know, that – I'm not sure what was meant by fixing the issue but I did actually find out what the status was and provided a response back from, from what I recall.

And if can take you to page 131, it's 21 January, is that the response that you went through to Mr Stavis?---That's right.

And that followed a discussion with Andrew about what had happened?  
40 ---That's right. Basically Andrew had provided a response on that and I, I kind of took the main parts out of that and, and sort of presented it back to Spiro to be able to, to see how the, the whole matter has unfolded and where we were at with it.

Yes. And you were ultimately directed by Mr Stavis to instruct the solicitors not to terminate the conciliation conference and to proceed with that, is that right?---That's right.

And that direction was within the scope of his authority as the director of city planning?---Yes.

And you'll see at page 143, I'll just show you that page. There's an email in the second half the document from Mr Hargreaves directly to Mr Stavis on 22 January, setting out in more detail a response to what had been occurring and one of the things that – sorry, 143. One of the things that Mr Stavis indicated was that he wanted to avoid a prolonged costly hearing if possible. Do you see that? That was his response.---Yes.

10

Or one of his responses. Do you recall having a view at or around this time as to that rationale for wanting to avoid a prolonged costly hearing and continue for that reason with the conciliation conference?---Yeah. Look, that was, that was something that we were, where we could, where we could avoid going to a full hearing because of the cost, so that was something that was, was considered as part of, of our assessment of these matter. However, you know, it, it depended on how long we would allow this process to continue because just in terms of our resources, you know, we were already stretched and if we were going to continue to keep, having to keep assessing amended plans, you know, there was a point there that you have to say, 20 “Well, that's it. We need to now draw the line,” because our resources were being drained in, in assessing each one of these, each one of these amended plans. But certainly trying to, trying to avoid a hearing where possible is, is something that, that is, is something that we, we did take into consideration as part of this process. Yeah.

Yes. Can I take you to page 186. This is an email from Mr Stavis to Mr El Badar and other on 29 January and it's copied to Councillor Hawatt but also blind copied to yourself. Do you see that?---Yes.

30

Do you recall seeing this email at or around this time?---I don't recall it, no.

No. You will see that this is perhaps following his return from leave and his review of the plans, the amended plan that had been submitted and Mr Stavis expressed, you know, a significant disappointment with what had been put forward. I just wanted to ask you about the second-last sentence, “Notwithstanding the above I have attached a sketch plan which provides some suggestions on how you can amend to satisfy our issues”, and there were attachments where, if I can just take you to page 188 where Mr Stavis 40 made some amendments to plans that have been provided. Do you see that?---Yes.

Can I just ask you what your view was at the time as to the provision of such a document by the director to an applicant?---See I wasn't, I wasn't at that meeting that was held where these discussions were made so I, so I wasn't party to these, to these discussions so - - -

All right. But speaking more generally, do you have a view or did you have a view at the time about Mr Stavis providing the applicant with a sketch plan suggesting how they could amend to satisfy the council's issues?

---Yes. Look, I thought that was quite a risky approach.

10 Why is that?---Because in terms of actually showing the changes that are required it means you haven't done a full assessment of what other, what other controls may have also been varied or affected. Like, you've got to be able to do a full assessment to realise what other matters are being breached by providing, you know, this suggestion. So, you know, the approached would be to actually say look, this is what we're looking for, these are the objectives, this is the controls, this is where we may be able to look at a variation if there was certain parameters but not to actually show exactly what is required because you're not aware of what else you're being, is being affected in terms of other controls.

Was this the only application to your knowledge where Mr Stavis engaged in amending detail of plans to indicate what the council might accept?---No.

20 Was that something that he did regularly?---Yes, from time to time, yes.

And what was your view of the appropriateness or otherwise of that practice?---Yeah, I didn't think it was appropriate.

30 And is that for the reasons you've just given or were there other reasons? ---No, the reasons that I've just given. I thought it was very risky because you are making a, you are committing to a particular outcome without realising the full ramifications of what else is being affected as part, without having done an assessment, you know, you're doing like a, it's like a desktop sort of assessment.

THE COMMISSIONER: It seems like a piecemeal approach.---That's right, yes.

MS MITCHELMORE: All right. Mr Gouvatsos, I just wanted to ask you now a couple of questions about a couple of sites on Canterbury Road.

---Yeah.

40 The first of those is 538-546 and 570-80 Canterbury Road and can I take you in that context to volume 15, page 58. You will see that this is an email to you from Mr Warren Farleigh, copied to Ms Dawson, on 14 January, 2016 and Mr Farleigh was at team leader within, was it urban planning. Is that right?---Yes.

And you will see that Mr Farleigh was raising with you an issue about a planning proposal for 538-546 and 570-580 Canterbury Road and that in that context the Department of Planning had raised a number of issues,

which are set out in the forwarded email at the bottom of the page, in relation to that proposal.---Yes.

10 And one of the things that was requested, looking at the bottom of page 58 at point 6 was details of approved DAs for the subject sites, including any pending DAs with council for assessment and currently awaiting determination. And what Mr Farleigh is suggesting in his email was that it may be prudent to defer further consideration of any relevant applications pending the submission of the requested material to the department and their consideration of that material in the context of any Gateway Determination that might be made for the planning proposal. Do you recall what your view was at that time in relation to that suggestion?  
---Yes, I agreed with that approach.

20 Do you recall having a view at around this time or perhaps as a matter of practice about the order in which a planning proposal and a development application in respect of the same land should be assessed?---Yes. I agreed with the approach that Warren was raising and that if there was a planning proposal we should be waiting for the outcome of that planning proposal before determining the application.

30 And what was your reasoning behind having that view?---Well, I thought that if there's, there was, these planning proposals were seeking significant increases in the height, so it was something that really should have gone through a particular process to ensure that there is some merit or there's some validity with, with that approach and to be given some sort of authority, therefore, and then the, the development application then could follow and once those heights were, were established, the development application would be much simpler in terms of how we would assess the heights. That was, that was the position that I held and, and a number of people I think at the time.

Was there any accepted practice at council in terms of if you had a planning proposal and a DA in respect of the same land on foot at the same time as to what should be progressed first?---No.

40 All right. And you'll see at page 60 there was the response from Mr Stavis in relation to Warren's email, you'll see at the top of the page 5 February, 2016, and it followed a discussion he had with an acting director from the Department of Planning, Mr Cooper.---Yes.

And you'll see that in the second-last paragraph Mr Stavis asked Mr Cooper whether he had any objections if we were to progress with the DAs, to which he replied, "That's a matter for council." But based on his discussion he was comfortable to continue with the DA assessment so long as the council responded to the issues raised or council officers responded to the issues raised by the department below in the assessment reports. Do you

recall having any discussion with Mr Stavis about this issue?---No, no, I didn't.

And do you recall having a view about whether you agreed with what Mr Stavis was proposing?---No, I didn't. I didn't have a view at that time.

10 Do you have a view now?---Look, I thought again it was, it was a risky approach because even though the department says it leaves it up to council, you know, that still does, does leave council having to make a determination on, on that approach, and again go back to my original proposal, well, you wait until the planning proposal comes into play and then that makes the assessment of the application a lot more simpler. Once those heights are established then we're not talking about variations, we're, we're talking about the other considerations within the DA.

Because the alternative is, if you don't have a planning proposal amend the controls, one needs a variation pursuant to clause 4.6 of the LEP. Is that right?---That's right.

20 And that required certain things to be established to the satisfaction of the council. Is that right?---That's right, that's right.

All right. Can I ask you now about, more specifically about 538 Canterbury Road, and it's the case that in 2015-16 a development application was being assessed to add two additional levels to an existing six-storey mixed-use development. Do you have any recollection of that, Mr Gouvatsos?---Not, not specifically, no.

30 All right. I just wanted to take you to a couple of emails in volume 17, the first is at page 187. You'll see it's an email of 4 February from Mr Stavis to you in relation to reports and an instruction to refer DAs to Mr Michael Brewer at Willana.---Yes.

Mr Brewer was an external planner that the council had used previously, is that right?---Yes.

40 And do you know or can you recall why Mr Stavis was referring these particular applications to Mr Brewer?---They, they'd done previous work for council so there was a suggestion that, that Mr Brewer would be in a better position to be able to carry out the assessment of these applications.

And did Mr Stavis discuss that with you before he sent this direction to you or - - -?---No.

And was the referral of application to external planners generally a matter for Mr Stavis or for you?---Well, it wasn't, well it was a matter that I, I could actually make a recommendation on that but in this particular case though, Mr Stavis dealt with it.

Can I take you to page 198 and you'll see it's an email sent the next day from Mr Stavis to you and it says, "George, change of instructions. Give this one back to Mine to prepare the report," and Mine and Mr Stavis had spoken about the changes previously and, "We both agree that the proposal is now supportable given the improvements made in relation to the existing approval as well." And you'll see written in bold, "Must go to March meeting." Do you recall any discussion with Mr Stavis at the time as to why the 538 DA had to go to the March meeting?---No, no.

10

And in relation to 570-580, you'll see at the bottom there that there's a reference, "It can go to April CDC meeting," and he'd like, "An external planning consultant to do." Do you see that?---Yes.

Did Mr Stavis explain to you why he wanted an external consultant to prepare a report on that application?---It would have been to try and meet the deadlines. We wouldn't have had the resources to be able to meet those deadlines, so therefore the only way we could deal with it was to, to send it off to a consultant.

20

Thank you. And then your response, can I show you page 190, you'll see was, on 5 February, 2016 at 12.59pm, you said, "I hope we have all the referrals for this to happen," and when you speak of referrals, was that both internal and external to the council?---Yes.

So, that would be in terms of external bodies, bodies like Sydney Trains and RMS, is that right?---RMS, yes. RMS.

30

They would be the main - - -?---That's right. The RMS in this particular, particular application, because Sydney Trains, it would be a, it wouldn't be close to a railway line but yes, it would be the RMS in, in this particular application.

And you'll see at the top of the page in a response to you, Mr Stavis said, "If not, we will have to do what we did last time, delegate to GM to issue approval one received." Did you know at that time what application he was referring to there?---Yeah, it would have been 548, the adjacent property that, that was, was undertaken in that manner.

40

And had that approach been, it had been adopted in relation to 548. Had it previously been adopted other than 548 to your knowledge?---It was not regular, no. It was quite an irregular approach.

All right. And do you recall having a view at that time about its appropriateness?---No. No, I didn't. I hadn't turned my mind to it. See, the, the problem we had at that time, too, that there was so many applications that were being undertaken and our resources were, were really stretched and there was sort of you know, expectations that we get these to

the last council meeting. So, you know, it was really stretched in terms of, of my involvement to try and deal with a whole number of these applications across that time. So, it was very difficult to, to be able to you know, focus on just one application when, when the expectations were we were going to get a whole number of them up to this council meeting, to the last council meeting, rather. Yeah.

10 I wanted to ask you some questions now about 212-218 Canterbury Road and 220-222 Canterbury Road and 4 Close Street. Can you recall, Mr Gouvatsos, that there were two separate DAs lodged, one for 212-218 Canterbury Road and the other for 220-222 and 4 Close Street?---Yes.

And do you recall that the floor space ratio that was sought for one of those DAs was double the permissible FSR for that site?---Yes.

And in relation to the other site, the FSR sought exceeded the permissible FSR by some 50 per cent. Do you recall that?---Yes.

20 And it was the case that in relation to the additional FSR, and I think also in relation to height, the proponent sought to vary the applicable development standards by the method of clause 4.6 of the LEP, is that right?---Yes, that's right.

And they made submissions that were directed to the application of clause 4.6. Do you recall that?---Yes.

Can I just take you to volume 25 and to page 248. You'll see that this is a checklist, review allocation panel. Do you see that?---Yes.

30 And it's dated 8 May. And is this a standard template document that would be used when an application came in?---Yes, that's right.

40 And it would indicate the planner that was responsible for assessing the application and what referrals needed to be made and that kind of thing, is that right?---That's right. And it was filled out by the team leader. So the team leader, the team leader would, would get the application, would have a look through that application and do a quick assessment and then would, would indicate – as you can see there, he's indicated he's given this particular one to Sean, looking at whether, what sort of notification is required, whether it needed to go in the paper or not, and then, then obviously the referrals as well, where it should be determined, whether it should go to IHAP, and then make some, some very sort of high-level comments about, basically pointing them in a particular direction about you need to have a look at certain things, yeah. That was a, that was a common checklist that we had for all applications that came through.

Yes. And so at this time, May 2015, was it Mr Pratt - - ?---That's right.

- - - at the time who would have filled this out?---Yes.

And you'll see under the heading Comments, the first asterisk referred to needing to assess it against a series of instruments.---Yes.

And noted that a clause 4.6 variation had been lodged.---That's right.

10 And noted that there needed to be a referral to RailCorp and that it needed to be addressed against – is it RFDC rules of thumb?---Yes, the Residential Flat Design Code.

And one of the things that was indicated needed to be looked at was building separation.---Yes.

And at the bottom there's an asterisk that says, "We need to arrange a meeting with SS/GG to discuss these issues for early direction ASAP." Do you see that?---That's right.

20 And do you recall there being a meeting at an early stage of this DA to discuss those issues?---No. No.

Can I take you over the page? You'll see that there is a response. It's an email from Mr Stavis to a series of persons, I think including you and also Councillor Azzi. Do you see that?---Yes, that's right.

And the subject was these two development applications. And you'll see at the bottom in handwriting, "George, see me about this with the file. Ta, Spiro." And that's dated 25 June, 2015. Do you see that?---Yes.

30 Do you recall any meetings at or around this time with Mr Stavis about this DA?---No, I don't.

40 Did Mr Stavis say anything to you at or around the time the applications were submitted, or subsequently, about the applicants for these DAs? So the applicant was Chanine Design Architects and the person, the contact person, was Mr Ziad Chanine.---No. No, I don't recall that. Because, I mean, this was not unusual. Chanine Designs, they had a lot of applications with council. So, so, no, no, there was no sort of particular reference to this application being submitted by the Chanine Design that I can recall.

All right. And do you recall that preparation of assessment, or the initial assessment of these development applications was outsourced to an external planner?---I don't recall that happening but obviously I've been made aware of it subsequently. What I do recall was that Sean had resigned and as a result of that we didn't have the resources to be able to give this to someone else so I imagine that was the decision that was, that was based on needing to refer this application.

Is it possible that the external planners were involved before, I'm going to George this wrong, Mr Flahive - - -?---Mr Flahive, yeah.

Mr Flahive?---Yeah.

Before he resigned. Is that possible?---Yeah. Look, I don't have a recollection of that, yeah. Sorry.

But that might be the case that - - -?---Yes, yes.

10

- - - that they were involved before he resigned?---Yes.

And assisted him with the preliminary assessment of the matter?---It's possible, yes.

All right. Can I take you, Mr Gouvatsos, to volume 26 and page 56. You will see that this is a letter and it's signed if you look at page, it's quite a lengthy letter, page 66. It's signed by Mr Flahive.---Yes.

20

And it doesn't appear to be dated but I believe it was sent around August of 2015 or July of 2015 and you will see on the first page that there was a number of, in the second paragraph that preliminary assessment had concluded that there was a number of significant design issues that had been identified including looking at the first one that the development significantly exceeded the permitted FSR maximum and that hadn't been sufficiently justified in the clause 4.6 submissions that had been put forward with the DA.---Yes.

30

Insofar as correspondence of this nature was going to an applicant, was it correspondence in which you had some involvement in terms of reviewing it before it was sent?---No, I don't, I don't recall having had, had reviewed this document no.

Was it your practice to review documents of this nature, preliminary assessment letters before they went out?---The team leader obviously would have reviewed it and on occasions though when it was an application that the team leader felt that I needed to also have a sign off on it he would, he would put that through to myself to, to also sort of review the documents.

40

All right. Can I just ask you just to check, can I take you to page 45, back to page 45. You will see this is a draft of the letter that was ultimately sent. ---Yes.

And you will see that it's marked, "Ta. Spiro. 5 August, 2015".---Yes.

And I take it you're familiar with Mr Stavis's handwriting?---Yes.

Are you able just to indicate looking at the amendments to this letter that they are all amendments that, based on your knowledge of his handwriting, were made by Mr Stavis?---Yes, they are.

10 Yes. Is it the case that Mr Stavis would as a matter of practice review these letters?---See again there were certain applications that would go through to the director to, to seek his input, so applications of, of a, of a, you know, significant size, you know, like in terms of, or complexity or had some other element that, that, that required sort of the director to, to be aware of what we were putting out, it was, it was not unusual for it to, for the director also to look at this, those letters.

All right. And in this case you've indicated there are a number of circumstances in which a development application and correspondence in relation to it might go to the director, can you recall why these applications were, were being escalated to that level?---No, I don't.

20 It may be possibly the scale of these developments, might that be a potential reason for that?---Yes, yes, that's right, because they were quite significant in terms of their size and the, the presentation along Canterbury Road, quite a prominent site, so it would have been something that, that could have been looked at by the director to ensure that the approach that we're going to, to put out he concurs with.

30 All right. Thank you. Can I take you while I'm in this volume, Mr Gouvatsos, to page 200. Subsequent to the letter being sent by Mr Flahive, further clause 4.6 submissions were sent to the council, and that occurred in about October, 18 October, 2015. And you'll see this is a series of exchanges between Mr Stavis and Mr Marwan Chanine. Do you know what Mr Marwan Chanine's role was in relation to these sites?---No, no, I don't.

You'll see that there is an email at about, the second of the emails on the page is from Mr Chanine to Mr Stavis - - -?---Yes.

40 - - - saying that this was attaching the updated clause 4.6 reports dealing with FSR, and there was a reference to an issue of DCP non-compliances with the secondary setback on Canterbury Road and Mr Chanine said this non-compliance was justified by CD Architects with the additional information previously lodged. And you'll see Mr Stavis's response on the same day was, "Thanks for the updated clause 4.6. In regards to the front setback, as discussed previously, the non-compliance was not adequately justified. I note our agreement that you would provide independent urban design advice in this regard. I'm not trying to be difficult, Marwan, and I would not ask if I didn't need. I need the ammunition, please do so ASAP." Can you recall reading this email when it was copied to you?---No, I don't, because I actually was on leave, I would have come back around the, the day before that, sorry, not the day before, the Friday before that, so I don't, I was off for two months in August '15, so I don't recall it, no.

All right.---And that's the reason why I don't recall it.

Thank you. So you were off in August and September of 2015. Is that, is that right?---Yeah, I was off, yeah, I was off August and September and I came back in October, that's right.

10 All right. Thank you. All right. Can I take you to page 251. You'll see at the bottom of that page there's an email of 24 October, 2015 from Mr Stavis to Mr Ziad Chanine and it's copied to you, and the subject is 212-220 Canterbury Road. Do you see, do you have that email, Mr Gouvatsos?  
---Yeah, that's, yes.

You've got that. And you'll see that there's a reference to a meeting last Thursday and that there were two issues that remained outstanding before the assessment could be finalised. Do you recall attending a meeting which would have been on or around 22 October, 2015 in relation to these development applications?---No, I don't.

20 Can you recall whether you attended any meetings in relation to these development applications?---No, I don't. I don't recall attending any meetings.

With the applicant or otherwise?---Oh, would have been internal meetings, though. I do recall discussions with, with Andrew but not with the applicant, no.

Or their architect?---Or their architect, sorry, yeah.

30 And you'll see that there were two issues that Mr Chanine, sorry, Mr Stavis raised with Mr Chanine. The first was justification of the proposal's noncompliance with the rear setback control under the DCP, and there's reference to the fact that the site adjoined the Canterbury Bowling Club site, which was the subject of an imminent rezoning proposal for high-density residential development. And the second of these was the submission of an urban design report which justified the proposal's noncompliance. So that was the urban design report to which Mr Stavis had been referring in the earlier email to which I've taken you so. And are you able to explain, if you know, Mr Gouvatsos, the rear setback issue? That's the first issue that Mr  
40 Stavis is raising.---Yeah, the, the, the situation was that you have the council's, council's building, council's bowling club site, which is adjacent to this development. That was proposed to be rezoned to an R4 zone, which then meant that under the Residential Flat Design Code it required separation distances. So in effect what it meant was that you needed to share the separation distances across the subject site and the bowling, the bowling club site. So that meant that you would have needed to have a nine-metre setback on this site, so subsequently any development on the adjacent site would also have to be nine metres. So that was like sharing,

sharing the separation distances between the two sites in, in the interests of being fair and equitable for any future development, and I, I, this particular proposal was not meeting that control.

And is that why Mr Stavis was asking for justification for the noncompliance with that requirement, is that right?---That's right. That's my understanding.

10 And you'll see that Mr Stavis says, in the second-last paragraph at the bottom of that page, "I have committed to reporting the DA to the November IHAP meeting. However, in order to meet this deadline it's imperative that I receive the above information by the end of next week." Do you recall whether there was any particular urgency to these DAs as you understood the position?---I recall that there was a commitment made to, to, to meet that deadline, but I don't know the reason behind why that was, that was, that was committed for that, to meet that deadline.

20 Did you have any discussions with Mr Stavis about the reasons for that? ---No, but this was not, like, there were certain commitments made with other applications too, so that was, you know, so I guess what I'm saying is that this was not necessarily irregular around that time. There were some commitments made for, for applications to meet certain meetings, and therefore the deadlines we had to work backwards to try and achieve that.

Can I take you to page 277. So Mr Black, is it the case that Mr Black, in effect, was preparing the assessment reports, in effect, to go forward to the IHAP, is that right?---That's right.

30 And they came in around early November. Do you have a recollection of that?---I don't recall it but I understand, having looked at the documents, that that was the case.

And do you recall, or was it your practice to review officer or, in this case, external consultants' reports to the IHAP before they were submitted? ---Yes.

40 And is it the case that you would make such comments as you considered to be necessary?---Yes, that's right. I guess my roles was to, to ensure that the report was accurate and to ensure that, you know, council policies were all being addressed. So in terms of reviewing it, that was, that was something that, before the report would go through to the director, my role was to review it. I guess it comes down to even picking up, you know, proofreading it, making sure that, you know, it was, there was no mistakes. Plain English. Make sure that it's written correctly. They were the sort of things that I was expected to do.

Can I take you to volume 27. And to page 3 and it may be, Mr Gouvatsos, given that if your copy's like mine, it's black and white. Is that - - -?---Yes, it's black and white, yeah.

Yes, it may assist if you look at the screen for this document because it's actually in colour and I just wanted to ask you, I don't know if you were in the hearing room yesterday when I was asking Mr Hargreaves questions about this document?---Yes, I was.

10 You were. And you'll recall that I went through with Mr Hargreaves the document and asked him to identify handwriting that wasn't Mr Stavis'. Do you recall that?---Yes, that's right.

And Mr Hargreaves identified what he believed to be your handwriting on the document which was generally in the right hand margin of the document.---That's right.

20 And is it the case that you were able to see that on the screen at the same time?---Yes.

And is it the case that you agreed with Mr Hargreaves' evidence when he was identifying handwriting as your handwriting?---Yes.

On each occasion?---Yes, that's right. I agree with – he's seen my handwriting to, to be able, for long enough to be able to identify it.

To make that assessment?---There's no doubt, yes.

30 Yes. All right. Can I just ask you, in relation to page 14, you'll see I believe it's your handwriting at the top of page 14?---Yes.

Which says, "Consider draft LEP on council land and setback from rear." Do you see that?---Yes, that's right.

And that relates to the issues that Mr Stavis raised in the email to Mr Ziad Chanine towards the end of October, is that right?---That's right.

40 And at this stage, is it right that the officer's or the consultant's report which had been prepared on behalf of council did not include any consideration of that matter?---That's right and that's why I've made a comment on that side that I thought that that should be included as part of this report.

All right. And is it the case that Mr Black subsequently sent back amended reports that did address that issue?---Yes. From what I understand, yeah.

All right. Can I just take you to page 23, page 23. You'll see that this is an email of 12 November, 2015 from Mr Black to Mr Stavis but I think you're copied on that email and he was sending back as amended version of 212-

218 Canterbury Road and this version starts at page 26, now included a number of additions including at page 38, you'll see that there is now a table that's been inserted to deal with the Residential Flat Design Code, RDC.  
---Yes, that's right.

10 And you'll see under Building Separation there's a reference to the fact, I think as you've indicated, that sorry the buildings are nine metres apart but you'll see towards the end of the entry, under the heading Proposed that to the south of the site was the property known as 15 Close Street, "Currently zoned RE1, public recreation. The proposed building currently had nil setback however, is propose to be increased to three metres as a result of the deferred commencement condition." Do you see that?---Yes, that's right.

20 So, can you recall that there was a suggestion, perhaps by way of compromise, that there be a deferred commencement condition for these development consents which required amended designs to incorporate a three metre setback from the boundary with 15 Close Street?---Yeah. The only thing I recall was that obviously, having seen this report, that the consultant has included this as part of a compromise position as, as part of this draft report, which, which was then put through to have a look at.

And do you recall reviewing this version of the report?---Yes, I think I did.

Yes. So, I think it's page 68.---68, yeah.

You will see at the top of that page it says, "Checked by George and Spiro."---Yes.

30 Is it the case in terms of how that occurred, and in the previous report and I think in this document as well both your handwriting and Mr Stavis's handwriting appear on the document, what was the order in which you respectively reviewed the document?---Well, what would happen is say the assessment officer would do, would do the report and prepare that report. In this case I guess it was the consultant. They put that through to Andrew because Andrew was sort of managing, managing that branch and I understand Andrew did make some, some changes to it. And then it was, and then it was normally then, occasionally it would be put through the team leader, that would have been Andrew, and then it would come to myself where I would review it and I'd make some of those comments as suggested  
40 and then it would go to the director, right. So I would have seen, my comments would have been on there first before it would go to the director. That's the normal course of, of proceedings.

And insofar as it comes back for the director, does it come back to Mr Hargreaves through you, do you see Mr Stavis's changes before they go back to Mr Hargreaves or not?---Generally, yes, yeah.

Generally, yes.---Yeah, generally, yes.

All right.---And I say generally because sometimes if there's a deadline and we have to meet, you know, it's pretty tight, the director would make a comment, it would then get amended and then it would just get put through and as long as the director is happy with it then it didn't always have to come back through me if we were short on time in terms of meeting a dealing which often happened.

10 Are you able to recall whether in respect of these applications you saw Mr Stavis's comments before they were fed back through to the consultant?  
---I can't recall, no.

All right. So you have a recollection then of reviewing the further draft of both this report and the report in relation to 220-222 and 4 Close Street. Is that right?---That's right, yes.

20 And similarly for the purposes that you've indicated as to why you'd be reviewing the reports in preparation for them going to the director and then to IHAP. Is that right?---That's right.

Did you attend meetings of IHAP?---No. Generally the meetings of IHAP the team leaders would attend so that was part of their role. They would actually, I did not, I, I attended the City Development Committee meeting but the team leaders would attend, would attend the IHAP.

So insofar as there was a meeting of IHAP that considered these reports on 24 November, 2015 you weren't present at that meeting?---No, that's right.

30 But you would come to know of the outcomes of IHAP meetings. Is that right?---Oh, yes. Look, there was, once the, the reports were prepared by IHAP they would be put through to myself, the director and the team leader that attended so we were all aware of what, what discussions were held as in the IHAP report and also their, their recommendations. That's right.

All right. And do you recall in relation to these development applications that the IHAP recommended that they be refused?---I do, yes.

40 And that was primarily because of the extent to which both applications involved exceeding the FSR?---That's right.

And those exceedances were not justified to the satisfaction of IHAP in accordance with clause 4.6. Is that right?---That's right, yes.

Can I take you, if you've still got volume 27.---Yes.

Can I take you to page 269. You will see that the bottom email is an email from Mr Tsirimiagos of Transport NSW to Mr Stavis. Do you see that?  
---Yes.

It's 25 November so I think it was after the IHAP meeting and you will see that he's forwarded that to Mr Marwan Chanine at the top of the page.  
---Yes.

And he's blind copied you into that.---Yes.

10 And you will see that in, just going back to Mr Tsirimiagos's email he's indicating that there was a problem with considering this matter on a deferred commencement basis. Do you see that?---Yes, I can see that, yes.

Do you remember any discussion around this time in relation to the email that as sent on behalf of Transport NSW about this deferred commencement issue?---No, I don't.

20 And you'll see that Mr Stavis has forwarded it on to Mr Chanine and has indicated "Worst case is that we add to the recommendation that council delegates determination of the DAs to the GM once concurrence, et cetera, is obtained." Do you see that?---Yes, I do.

Do you recall any discussion with Mr Stavis around this time about that option?---No, I don't. And the reason was, I guess, Andrew, Mr Stavis was dealing more so with Andrew with regards to this because, so that's why I wasn't fully aware of the detail, so I don't recall having had that discussion.

30 Was there any particular reason why you weren't involved or - - -?---I think it was just the workload with the rest of – so there was no particular reason, no. I can't, just the fact that there was so many things happening at that time to go to this last council meeting that it just, I was not included in each one of these discussions.

And you'll see on the next page, sorry, 271, there's an email exchange between Mr Stavis and Mr Montague about – sorry, 271 – between Mr Montague and Mr Stavis, and again you're copied in. You'll see that there's a discussion at 271. There's a heading Canterbury Road Chanines. Do you see that in the email from Mr - - -?---Yeah, Canterbury Road Chanines, yeah, yeah.

40 Yes, Mr Stavis to Mr Montague. Which indicates or raises with Mr Montague the fact that they'd yet to receive concurrence from RMS or Sydney Trains and "Technically the application cannot be determined until this is received and it cannot," I think, "cannot be conditioned. And if we don't receive before the CDC meeting, the only way we can progress the DA is to recommend the following," and there was a recommendation made. And Mr Montague's replied, "Sounds good. Please proceed as proposed." And that's been sent to you. Do you see that?---Yeah, at the top.

That's been forwarded on to you at the top of the page.---Yes.

And do you recall why it's been forwarded to you?---No, I don't.

Rather than Mr Hargreaves?---No, I don't.

Do you recall any discussions following on from receipt of this email with Mr Hargreaves or Mr Stavis?---No, I don't.

10 All right. Now, after that time, the applicant's lodged a formal objection to the setback condition and provided some legal advice that they'd received from Sparke Helmore.---Yes.

That advice is at page 274. You'll see it's dated 27 November, 2015.---Yes.

Do you recall seeing that advice at or around the time it was provided to the council?---Yeah, I, I do recall having read that. I think Andrew may have, may have brought it to my attention.

20 And were you involved in any discussions about the advice, either internally with Mr Hargreaves and/or Mr Stavis?---I can't recall, no.

You have no recollection?---It's, it's likely that I may have, but I can't recall. I have no clear recollection about actually discussing it.

And can I then take you to page 293. You'll see that this is an email from Mr Hargreaves to Mr Stavis and it's copied to you, 30 November, 2015, which attaches a memo from the GM to all councillors about changing the recommendations for 212-218 and 220-222 Canterbury Road. And the  
30 memo, Mr Gouvatsos, is at page 302.---Yes.

And it attached a response to legal opinion from Sparke Helmore. Do you see that over the page?---Yes.

And are you able to tell me what involvement you had in the preparation of these documents?---My recollection was that I had very little to do with that and the reason was there was, there was a lot of, there was a lot of activity, I suppose, with regards to, between the IHAP and getting this matter to council. So Andrew was mainly, mainly getting directions from Spiro about  
40 how to proceed with this matter, so I wasn't, I was not involved in terms of those discussions, right? It, it, it was just that there was, there was no time. The time limit was very short, so therefore, you know, Spiro and Andrew were basically organising the preparation of this meeting. Sorry, this memo.

So in relation to these DAs, is it the case that Mr Hargreaves was dealing with it in conjunction with Mr Stavis rather – what was the purpose of you being copied into communications in relation to it?---Look, I think it was just, it was actually just a procedural thing. I was involved, I was in terms

of just being aware, right, of what was happening, but not, yeah, I wasn't, I wasn't, like, the day-to-day stuff in terms of what was put together, I wasn't involved in that.

So in terms of the content of these documents, did you have any involvement in what was contained in them or the amendments to the conditions, sorry, amendments to the resolutions of council in relation to the applications?---I, I don't have a recollection of that, no.

10 Thank you. Just finally, Mr Gouvatsos, and taking you back to the question of the use of clause 4.6 of the LEP to deal with departures from or variations to development standards in relation to particular development applications, did the Department of Planning ever raise concerns or provide advice about Canterbury Council's use of clause 4.6, so far as you can recall?---No, as far as I can recall, no.

Thank you. That's all the questions I have for Mr Gouvatsos.

THE COMMISSIONER: Mr Andronos?

20

MR ANDRONOS: No questions, Commissioner.

THE COMMISSIONER: Mr O'Gorman-Hughes?

MR O'GORMAN-HUGHES: No questions, Commissioner.

THE COMMISSIONER: Mr Drewett?

MR DREWETT: I've got no questions, Commissioner.

30

THE COMMISSIONER: Mr Pararajasingham?

MR PARARAJASINGHAM: Just very briefly, Commissioner. Sir, can you hear me all right?---Yes, I can.

I appear for Mr Stavis. I just want to clarify one aspect of your evidence from earlier this morning. It is the case that you and Mr Stavis would, from time to time, have a divergence of opinion when it came to development applications?---Yes.

40

That is, the merits of a development application?---Yes.

And where Mr Stavis adopted a different position, it's the case that you understood that that was based on his assessment of the merits, correct? ---Yes, that's right.

Certainly, and that may have been different to yours?---Yes.

But as you understood, these were genuine beliefs that he held, correct?  
---Yes.

Now, it is also the case that you understood that Mr Stavis had considerable experience in assessing DAs, correct?---Yes.

Perhaps in excess of 20 years?---Yes.

10 And you observed Mr Stavis to have confidence in the manner in which he assessed DAs, correct?---Yes.

And you observed Mr Stavis to have confidence in the positions that he reached with respect to DAs, correct?---Yes.

Is another way to describe that is that you observed Mr Stavis to back his judgement?---Yes, yes, he did.

20 Even if that was a different position to others within the team?---Yes.

THE COMMISSIONER: Sorry, what did you mean by “back his judgement”?---Well, just in terms of his position, though, where he, where he, why he, he formed that view, I suppose. That's - - -

MR PARARAJASINGHAM: So he would - - -?---I think that's what you're asking.

Yes, I'll clarify.---Is that what you're asking me? If, yeah. Sorry if that - - -

30 It was.---Yeah.

But just to make it abundantly clear, he would come to a position on a particular development application and you observed that he had full confidence in the position that he had taken.---He certainly would express that in a confident manner, yes.

Yes. And that's the context in which I asked you the question about observing him to back his judgement.---Yes.

40 Now, all of that, can I suggest, can be contrasted to Mr Occhiuzzi's position. Let me explain that.---Yeah, right.

Certainly Mr Occhiuzzi didn't have the same level of experience in assessing DAs, correct?---I'm not sure exactly how much, in terms of number of years, how much Marcelo would have, no, I'm not sure.

But compared to Mr Stavis, you certainly formed the view that Mr Stavis had greater experience in assessing DAs than Mr Occhiuzzi had.---Yes,

because Mr Occhiuzzi had a lot of experience with regard to strategic planning, right, and a background, yeah.

I'm not suggesting that - - -?---Okay.

- - - Mr Occhiuzzi didn't have other skills.---Yeah, sure.

But just on this particular issue, you certainly formed the view that Mr Stavis had greater experience in assessing DAs than Mr Occhiuzzi?

10 ---Yes.

And might that explain perhaps why Mr Occhiuzzi adopted a more consultative approach when it came to assessing DAs, that is, consulting with his team? Is that, is that perhaps an explanation for why Mr Occhiuzzi approached things in that way compared to the way Mr Stavis did?---Yes, it could be an explanation, yes.

Nothing further, Commissioner.

20 THE COMMISSIONER: Mr Moses.

MR MOSES: Just one question, Commissioner. Could the witness be shown volume 27, page 16.

THE COMMISSIONER: Page 16?

MR MOSES: Yes, Commissioner. Do you have that, sir?---Yes, I've got it.

30 Just on the right-hand side your handwriting I think you've confirmed is, "Check?"---That's right.

And the underlining that occurs there, that's not your underlining, is it? ---No.

No. Okay. Thank you. No further questions.

THE COMMISSIONER: Ms Mitchelmore?

40 MS MITCHELMORE: Commissioner, I have no further questions for Mr Gouvatsos, if he could be excused.

THE COMMISSIONER: Thank you for coming in to give evidence and you are excused.---Thank you, Commissioner, thank you.

**THE WITNESS EXCUSED**

**[11.21am]**

MR BUCHANAN: The next witness, Commissioner, is Mr Maroun. I'm told he's present. I see the time and I'm just wondering, it's a matter for the Commission, as to whether it might be appropriate to take an early morning adjournment or can we commence Mr Maroun and have a short amount of evidence before adjourning?

10 THE COMMISSIONER: Why don't we take the morning tea break and then come back and go through with Mr Maroun till lunchtime. So if we can all be back here by about 20 to 12.00. We'll adjourn until then.

**SHORT ADJOURNMENT**

**[11.22am]**

MR GRANT: Grant is my name, G-r-a-n-t. I seek authorisation to appear for Mr Maroun.

20 THE COMMISSIONER: You're authorised, Mr Grant.

MR GRANT: Thank you. I also seek the section 38 declaration and Mr Maroun will give evidence on oath.

THE COMMISSIONER: And you've explained the section 38 direction?

MR GRANT: Yes, I have.

THE COMMISSIONER: Thank you. Mr Maroun.

THE COMMISSIONER: Now, Mr Maroun, Mr Grant has explained section 38 to you. I just want to emphasise to you that there's a very important exception to the protection given by an order under section 38. That is if you give false or misleading evidence to this public inquiry, you could be prosecuted for an offence under the ICAC Act. It's a very serious offence, it brings with it a maximum penalty of a term of imprisonment.

10

Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by this witness during the course of the witness's evidence at this public inquiry are to be regarded as having been given or produced on objection and there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

20

**PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY THIS WITNESS DURING THE COURSE OF THE WITNESS'S EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

30

THE COMMISSIONER: Mr Buchanan.

MR BUCHANAN: Commissioner. Sir, what is your full name?---Jimmy Maroun.

And what is your occupation?---Developer.

And that was your occupation in 2015-16?---Yes.

40

Did you have a number of companies that you operated in the period say, 2013-16?---Yes.

Did they include Multitech, M-u-l-t-i-t-e-c-h, one word, Constructions Pty Ltd?---Yes.

Sydney Living Real Estate Pty Ltd?---Yes.

Rafqa, R-a-f-q-a, Holdings Pty Ltd?---Yes.

Lonestar Constructions Pty Ltd?---Yes.

Were they companies that were active in the period say, 2014-16?---Some were active, some not.

And what was the nature of your business in the period, I'll go back to 2013-16, if I can?---I was building a job in Rosebery in the name of Multitech.

10 And was there any other construction work that you were doing in that period?---Maybe a couple of houses on Earlwood.

And if it was Multitech that was working on the Rosebery site, who was doing the couple of houses in Rosebery?---Multitech is the owner of the site at Rosebery.

Earlwood, I apologise.---MPG was, was the building company.

Was that your company?---Yes.

20

And how do you spell that, sir?---M-P-G.

Thank you.--- Multipower Group.

Was there any other business you were conducting in the period 2014-16? ---Apart from building, no.

30 Did you own any sites, whether yourself or through a company, apart from the sites on which you were building in that period?---Yes. I had a site of Canterbury Road, Campsie.

And what was the address on Canterbury Road, sir?---I had two sites on Canterbury Road. One is 538-546 Canterbury Road and the other one is 457, I think it was.

453-459?---Yes.

Rather than 457?---You could say that, yeah.

40 And did you hold those yourself or through a company?---Through a company.

In the case of 538, what was the company through which you held that site? ---Jarek.

Thank you. J-a-r-e-k, that right?---Yes.

Jarek Holdings?---Yes.

And in the case of 453-459, what was - - -?---CHP.

THP?---No, C for Charlie.

I'm sorry, CHP, thank you.

Were there any other sites that you owned apart from the sites that you've identified?---No.

10

In 2015-16, I'm confining the period a bit now, did you conduct any of your businesses using cash?---What do you mean by using cash?

Well, you had contractors to pay, is that right?---No, I pay all my contractors on ABN and GST.

And you didn't pay them with cash?---No.

20

Was there any other way in which you conducted your business, as against your personal affairs, using cash in 2015-16?---I do use cash a lot myself, yeah.

For what purpose, sir?---Gambling mainly.

And in 2015-16 what form did your gambling take?---(No Audible Reply)

Was it casinos, was it the TAB - - -?---Mainly horses, mainly horses.

30

Mainly horses. And where, sir?---And, and casino. Mainly horses and casino.

And when you bet on horses, how did you do that in 2015-16?---Sometime I go to the racecourse, sometime I go to the TAB, sometime on the phone.

And you gambled at casinos as well in '15-16?---Yes.

And which casinos?---Mainly the Star City, I go to the Crown sometimes. Been as far as Burswood in Perth.

40

And did you keep any records of your gambling expenditure or winnings?---No.

In 2015-16 you used a mobile telephone. Is that right?---Yes.

And one had a number of [REDACTED] Is that correct?---That's my phone, yes.

Did you have any other mobile phone that you used in 2015-16?---I had a number that I hardly use, I even lost it. Ends up with 5-5-5.

It ended in 5-5-5, did it?---Yes.

Thank you. And what was the occasion to use that number rather than your 2-2-3 number?---Sometimes you call a subbie or a supplier and they don't answer the number that they know and I need to speak to them so I use this other number.

10

And for that purpose you actually had another physical telephone. Is that right?---Yes.

Now, in the period 2013-16, so I'm expanding it to go back to 2013-16, you had development proposals before Canterbury City Council. Is that right? ---Yes.

And one of them was for 453-459 Canterbury Road. Is that right?---Yes.

20 And was one of them for 538 Canterbury Road?---Yes.

And when I saw one of them for 538 Canterbury Road, I think there was actually two successive DAs and a section 96 application. Is that right? ---Yes. Maybe three.

Maybe three successive DAs?---Yes. I submit to council three times.

In respect of 538 Canterbury Road?---538-546, yeah.

30 Thank you. Excuse me. Can I just deal with 453-459 Canterbury Road. I'm going to put to you what I'm going to suggest is a very brief summary of that DA and invite you to respond as to whether that's accurate or not. What I'd suggest is, having lodged a development application in about November of 2014, RMS issues were encountered, you were asked to withdraw the DA in January 2015 and you did.---Yes.

Can I ask you now about your relationships with various people. In 2013/16 you knew Michael Hawatt. Is that right?---Yes.

40 And for how long had you known Michael Hawatt?---About 20 years.

And what was the nature of your relationship with Mr Hawatt?---We used to go to the gym together and used to hang around together.

You were friends. Is that right?---Yes.

And when you went to the gym together was that something that you had done for the whole of that 20 year period?---No.

When did you start going to gym with Mr Hawatt?---Probably about eight years ago, 10 years ago.

From now you mean?---Yeah.

Calculating back.---Yeah.

10 And when you went to gym with Mr Hawatt was there a particular gym or gyms that you went to?---I had a gym at my place.

And was that a public gym or just your own?---My own.

And can you tell us what address you lived at that this gym was at [REDACTED]  
[REDACTED]

Did you go to any other gym with Mr Hawatt?---Yes. We went once I think to another gym in Earlwood on Homer Street.

20 And what gym was that, sir?---It's a training gym.

Yes. Do you remember whether it had a name or who operated it?---Oh, I think the property owned by George Vasil. I don't know if, if he owns the gym.

Con Vasiliades, was he associated with that gym?---Don't know him.

Now, are you still a friend of Michael Hawatt's?---No.

30 When did your friendship cease?---When all this thing started.

And when was that, just thinking as best you can what the time was when the friendship ceased?---I don't recall but I hear what's going on and I thought it better to cease our relationship rather than be together.

40 Was that a time that you'd associate with learning that various premises had been the subject of a search warrant executed on behalf of the Commission?---Well, I was asked to come to a private Independent Commission Against Corruption once before and I was told over the phone not to talk to anyone about this so that's when I stopped seeing Michael at all.

And when was the last time you had communication with Mr Hawatt?---I don't recall.

As best as you can recall how long ago was it that you had any contact with Mr Hawatt?---Not after the private investigation that I went through. Before maybe. Before, yes, but not after.

Did you tell Mr Hawatt that you weren't going to have any further, anything more to do with him?---No.

Can you think of the time – I withdraw that. You found out did you in the middle of 2016 that the State Government was forcing Canterbury Council to merge with Bankstown Council?---Yes.

10 If I tell you that occurred on 12 May, 2016 did you have communication with Mr Hawatt after that date?---I don't recall.

Do you remember when Mr Hawatt was, as far as you understood, no longer a councillor?---That's on the last election he was running for.

Well, just thinking about as far as you can recall when Mr Hawatt was no longer a councillor for whatever reason, did you continue having a contact with him between that time and the time you were called to an inquiry here? ---I don't recall.

20 Did you ever go to Mr Hawatt's house?---I've been there once.

When was that, as best you can recall, sir?---Oh, it's about three years ago, maybe four.

Did you ever have a meeting at Mr Hawatt's house with Mr Hawatt about 538 Canterbury Road?---No.

30 Now, did Mr Hawatt ever have any contact with you about 538 Canterbury Road?---We used to speak about it but not at his place, sometime when we're at the gym or out somewhere we speak about it.

Did you entertain Mr Hawatt at your place apart from him using your gym? ---Yes.

And did you contact Mr Hawatt about 538 Canterbury Road?---Yes.

And how much contact was there between you and Mr Hawatt about 538 Canterbury Road?---I don't recall.

40 Was it more than one conversation?---Yes.

Was it many conversations?---Was, was, was definitely more than one but I don't know what, what you call many, is it - - -

Well, if you could give us your memory, please, of the extent to which you and Mr Hawatt had contact with each other about Canterbury Road, 538 Canterbury Road.---Maybe five times or 10 times, I can't recall.

Possibly 10 times you say?---Yeah, possibly, possibly 10.

And what was the purpose of the contacts that you had with Mr Hawatt about Canterbury Road?---I submitted for 457 as eight levels and I was asked to withdraw that because of RMS issues, where 538-546 is zoned, it hasn't got the RMS issue, what I was told by the staff of Canterbury Council, so I asked why can't I have eight levels at 538-546 if I can have it at 457? I met with the director of town planning and he told me what to do to meet all objections. I think I had the approval for 44 units. He asked me to delete two units, add a lift, instead of one, have two lifts and do some major work to the setbacks, meet all objections and should be fine. So I called my architect and asked for a meeting between the director of town planning, the architect and myself and we addressed all those objections and done it. So my conversation with Michael Hawatt is sometime you call council, it'll take you a week or two to get through to the person that you want to speak to, in particular the director of town planning or the GM. Probably I was talking to him mainly to speed up the process. So as a friend, I can't even recall whether I spoke to him or Pierre, we used to hang, the three of us used to hang around together. So they called for a meeting for me with a guy by the name of Spiro Stavis, he's the director of town planning, so that was very much it, just to speed up the process.

And when you say the process, you're talking about the process of getting approval for your applications, is that right?---No. To speed up the process to get the meeting to, to find out if I can have, instead of six level, eight levels and there, there was other projects in the area on Canterbury Road, they've got eight levels. So, if they can get eight levels, I thought I'll ask if I can have, if I can have eight levels.

30 And you wanted eight levels because it'd improve your lot yield?---Yes.

Over say six levels?---Well, that's six extra units.

And did you approach Mr Hawatt to speed up the process of getting a meeting because you knew he was a councillor on Canterbury Council?  
---Of course.

40 And did you approach Pierre Azzi for the same reason?---Yes, were together.

So, they were together, that is to say Hawatt and Azzi?---Yeah.

What do you mean, "They were together"?---When, when I spoke about that, they were together at my place, at my gym and I said that's what I'm trying to do. I've been trying to call Spiro Stavis and it had been over a week and I can't get hold of him and he doesn't return my call. So, I discussed it with them, if they can call for a meeting with myself and the director of town planning, Spiro Stavis.

And do you remember this was? Like, for example, a year?---No. More than a year, probably two years.

Sorry, my mistake, I should have asked you – do you remember whether it was in 2014, 2015, 2016? No, more accurately, I'm sorry, I withdraw that. Was it in 2015 or 2016?---Either '15 or '16.

10 Now, did you have contact with Mr Hawatt or Mr Azzi for any other purpose that was related to 538 Canterbury Road?---And to do with 457 as well because when I lodged the DA for 457 as, you know, you need to tick all the boxes before they'll accept your submittance, your submission. So, I ticked all boxes. A month later, was asked to withdraw the submission. I asked why, at the time, about the RMS. It's been a B6 enterprise corridor, I think it is. So, the B6 enterprise corridor is affected by RMS. So, I spoke to them about it and they, and they said to me they're working on it. Until now, actually, I checked this morning on the way here, it's still B6 enterprise corridor. That's four years later.

20 Are you talking about zoning, are you?---Yeah. That's why they rejected my submission in 2014 I think it was.

When you say, "They rejected," you mean council?---Council emailed me to withdraw my submission.

You mean your DA?---Yes.

And that's the DA for 453/459 Canterbury Road?---Correct.

30 So, just going back to the question of your contacts with Mr Hawatt and Mr Azzi about 538, did you have any contacts with them in relation to that property apart from to try to speed up the process to get a meeting with Spiro Stavis?---No. Such as?

Well, you're the person who knew them. I wasn't there. You could tell us what your contacts were with - - -?---It's mainly, it's mainly to deal with the extra two levels.

40 The extra two levels, so the second DA for 538. Is that right?---I think from my recollection I've submitted three times for this site.

Yes. Could you tell us about which three times you're talking about?---The first time I submitted for I think six levels. Then I submitted again for seven levels. When, when I was told you can go eight level I was worried about the height because the height was 25 metres. On eight levels it's supposed to be 26 metres so there's an extra one metre so I thought I'll go seven levels then when I met with Spiro Stavis and he explained to me the

objections, what I need to do to be able to achieve eight levels, I did what he asked me to do and got it through.

Excuse me a moment. Did you have any other contacts with Mr Hawatt or Mr Azzi in relation to 538 Canterbury Road than the ones that you've told us about to speed up the process of getting a meeting with Spiro Stavis?---I don't recall.

10 You used the expression the three of us used to hang out together or hand around together.---As friends, yes.

Is that right, the three of you would go to social functions?---Yes.

The same social functions for example?---Yes. Yes.

Did they go with you to the racecourse or the casino?---Yes.

Did Mr Hawatt go with you to the racecourse?---No, Pierre mainly.

20 Pierre went with you to the racecourse did he?---Yes.

Did he go with you to the casino?---I don't remember.

Did Mr Hawatt go with you to the casino?---No.

Were there other things that the three of you used to do together?---Like, we've been to clubs. We've been to - - -

30 What sort of clubs, sir?---RSL Club, Canterbury Leagues Club. We've been to functions like fundraising where all of Canterbury Council were there including the mayor and the GM. I was invited to that and I was together with them.

Have you had meals together with those two gentlemen?---Yes.

How frequently did that occur in say 2015/16?---Once a month maybe.

40 And where did you use to have your meals?---Anywhere. It can be at my place. It can be at the club or at the restaurant, whatever.

Did you go to coffee shops with either of those men?---Yes.

And were there any particular coffee shops that you went to with either Mr Hawatt or Mr Azzi or both?---Once I remember we went to a coffee shop in Earlwood in Homer Street next to the gym. We had coffee there once or twice.

Have you been to a coffee shop called Salvatores with either of those men?--Where's this at?

I'm sorry?---Where's this at?

THE COMMISSIONER: Where is it at, the location.

MR BUCHANAN: Where is it at? Have you been to a coffee shop called Frappe?---Like, give me the addresses, please.

10

In 2013-16 for how long had you known Pierre Azzi?---For a good 10 years.

And how had you come to know him?---Because he's a taxi, he's a taxi driver and I used to drive taxis as well.

And - - ?---From the taxis.

I'm sorry, go on.---I, I, I, I knew him from the taxis.

20

And so you met Mr Azzi quite separately from Mr Hawatt. Is that right? ---Yes, sometime I meet one, sometime I meet both of them.

THE COMMISSIONER: No, no, when you first met Mr Azzi was it through Mr Hawatt or was it independently because you both drove taxis? ---No, independently.

MR BUCHANAN: Thank you.---Thank you.

30

Do you remember a time in 2016 when Mr Azzi was no longer a councillor, as you understood it?---(No Audible Reply)

You're shaking your head?---I said no.

Do you remember the time that I told you about earlier in May 2016 when the State Government forced Canterbury Council to merge with Bankstown Council?---I heard that, but I thought they both didn't run for the council election that year or the following year, I don't recall.

40

But in between the time of the forced amalgamation and that election, you understood didn't you that neither of those councillors, sorry, neither of those men were any longer a councillor, didn't you?---When I stopped, when I stopped, like, my, my talking to them, when I heard about what's happening in council I read it in the paper, but when you give me days or dates, as, as when they resigned or kicked out or they didn't run for the election, no, I'm not up to date of that. I don't know.

Well, you read in the paper didn't you - - ?---Yes.

- - - that the two councils were forced to amalgamate?---No, before that.

You read about it before that?---I read before that about the problem between the GM and, and the councillors.

Yes.---My relationship, my relationship with them, not so long after that, have, have stopped.

10 Well, if I tell you that the problems in the relationship between the GM and Councillors Azzi and Hawatt was roughly speaking in the period December 2014 through to about February 2015, are you saying that your relationship with them stopped shortly after that or during that period?---No. What I'm trying to say is when they had this problem in 2014, late 2014, I started to learn what's happening in council, I shouldn't be anywhere close to them. So when I stopped talking to them, it could be '15, it could be '16, but I wouldn't mix with them as I used to before then.

20 And what was it that you learned that led you to the belief that you should, you know, reduce your association with them?---Well, I don't, I don't recall exactly what I read in the paper back then, but they had a major problem internally between the GM and those two councillors, Michael and Pierre mainly. So I didn't break my, like, my relationship with them immediately but I, if I can use the word, I slowed down my involvement with them. Then - - -

And did – I'm sorry, go on.---Then I stopped.

30 And why did you slow down your relationship with them? What was it about what you had learned or what you understood about the dispute between the GM and Councillors Azzi and Hawatt that made you think, oh, I should change my relationship, I should step back from those two men? ---Well, it's not my business to find out the extent of the problems between them, amongst them, but I'd rather be not involved with people who has got problems. That's my, that's my personality. That's, that's who I am.

You don't have a memory of learning the problems between the GM, on the one hand, and Councillors Azzi and Hawatt, on the other hand, seemed to be fixed by early 2015?---No. I can't recall.

40 That would come to you as a surprise, would it?---Why?

Well, that's what I'm asking you. See, the evidence before the Commission would suggest that the problems that occurred between the GM and Councillors Azzi and Hawatt in late 2014/early 2015 were largely fixed, solved by mid-early 2015, say March of 2015. So, what I'm asking you is, you didn't understand that things were fixed between the GM and Councillors Azzi and Hawatt at any time in 2015?---I don't get involved in stuff like that. So, I wouldn't, I can't comment on this. I don't recall.

But these two guys are your friends.---Yes.

And you hang out with them?---Yes.

And they don't say anything to you?---No, even if they tried to say anything, when it comes to that I don't have to listen to them. Not everything your, your friend says, you need to very much record it or try to memorise it. I had learnt the, the problem not from them, from the paper.  
10 They didn't tell me because I've got nothing to do with it. Whether they tell me or not, I can't, I can't be any assets or anything to their problems.

But anyway, you say, do you, that as a result of what you read about those problems between the GM and Mr Hawatt and Mr Azzi you decided to slow down your relationship with them in 2015?---Yes.

And how did that occur? What was the change that occurred in your relationship with those two men in 2015 as a result of what you'd read about the dispute with the GM?---We, we used to call each other let's say once  
20 every, twice a week. I slowed that down to probably once a week or once a fortnight. We used to hang around together for let's say once a week. Again, slowed that down.

THE COMMISSIONER: Did you still go to the gym? Did they still come over to your house and use your gym?---No.

That stopped, did it?---Yeah. Like, normally, when they do come to the gym, that's when I talk to them, they come to the gym. It's not a gym that  
30 they can walk in without my permission.

No, no, no. But after you read in the paper and you've said that you slowed down the relationship and you've given an example that instead of calling each other once a week, you slowed it down to twice a week, my question is, when you decided to slow down the relationship, did Mr Hawatt and Mr Azzi still come over to your house to go to the gym with you?  
---Occasionally, yes.

MR BUCHANAN: Why didn't you break off the relationship you had with those two men, the friendship you had with those two men all together when  
40 you read about the problems with the GM?---Why should I?

Well, you're the one who decided you needed to slow down the relationship. I'm trying to work out, you had a choice. You could keep the relationship at the same level of intensity, you could slow it down or you could stop it all together, and I'm asking why did you make that choice to choose the option of slowing it down instead of stopping the relationship all together?---Because that's what I thought is best at the time, slow it down.

And why did you think that was best at the time?---Because they've done nothing wrong by me.

Why slow it down at all in that case if they hadn't done anything wrong by you?---That's' what I thought is best to do to minimise our get together.

And did you understand at any stage, I just need to go back to 2016, from Councillor Hawatt or Councillor Azzi that they'd lost their jobs as councillors as a result of the forced amalgamation with Bankstown Council?---From, from what I, from what I understood it's going to the next election.

What do you mean by – I'm just asking you to explain your understanding. What do you mean by saying it's going to the next election, what did that mean to you?---The election wasn't far from the amalgamation from memory. Is that right?

Well, it's your memory that we're after actually, sir.---Okay. I thought the election is not far from when they amalgamated and if they're to run for the, for the council you'll see their names and photos everywhere. None of that happened.

Right. And so what did that make you think about these two men who had been councillors for some of the time that you've known them, what did that make you think about their status as councillors?---They're no, they're no longer councillors.

So can I just clarify and you tell me if I've got any of this wrong. I just want to make sure we understand your evidence correctly. Your understanding was that they remained councillors in 2016 at least up to when the next election was after amalgamation?---That's what I thought, yes.

But at the time of the next election you noticed that there weren't any posters around for them and that led you to conclude that they were not standing for election?---That's right.

You don't have a memory of anyone indicating to you that the amalgamation of the two councils meant that those two men were out of a job at council?---Sorry, can you repeat the question.

Yes, sure. You don't have a memory, is that what you're telling us, that at the time the two councils were amalgamated, which I've told you was in May, 2016, that Mr Azzi and Mr Hawatt were no longer councillors?---No.

Did you ever go to Mr Azzi's house?---Once.

And what was that occasion, sir?---It was Christmas Eve.

I'm sorry?---Christmas Eve.

Christmas Eve. Do you remember which year?---Probably about four years ago.

So possibly 2014 Christmas Eve?---2014 or 2015, yeah.

10 Now, I've been asking you questions about contact you had with Mr Hawatt and Mr Azzi about your applications in respect of 538 Canterbury Road and you've said, tell me if I'm wrong, you had some contact with them about that subject. Is that right?---Yes.

But the impression that you've given is that it was very limited contact. Limited to organising, trying to organise meetings with Spiro Stavis. Is that right, is there anything else in terms of the contact you had with these two men and your applications in respect of 538 Canterbury Road?---As I said, I have two applications.

20 Yes, I know. Sorry, I understand that, but you have told us that 543 finished in January 2015, you withdrew it.---I withdrew it on the basis that - - -

No, no, I understand what the basis is, so we can put aside that application. Just thinking about 538 Canterbury Road, was there any contact you had with Mr Azzi or Mr Hawatt to pursue to try to progress your applications in respect of 538 Canterbury Road other than to try to organise a meeting or meetings with Mr Stavis?---No.

30 Nothing else?---Nothing. But if I can clarify - - -

Yeah, sure.---Can I say, during the, during the time when, when I was, when I was trying to get the section 96 approved for 538 Canterbury Road, I was told by council they're working on sorting out the RMS issues with the B6 zoning down the road, so sometimes I used to call them to see where they're at with the RMS issues.

40 THE COMMISSIONER: Sorry, and when you say I would call them, who is them?---I'd call either Spiro Stavis, the GM or Michael Hawatt or Pierre Azzi.

MR BUCHANAN: So how many calls would you have had after January 2015 with any of those four men about the RMS issues that affected 453-459 Canterbury Road?---I've sold, in 2015 I've sold 457, I think 2015, yeah, I sold it as is without the, the rezoning.

So are you talking about 538 Canterbury Road when you say you made inquiries about RMS issues?---Between 2013 and 2016, yes, on both of them.

And just thinking about 538, how many times did you have contact with any of those four men about RMS issues that related to 538 Canterbury Road?  
---538 has nothing to do with the RMS issues.

That's what I thought you said earlier.---Yeah.

So you had no contact with them about - - -?---I'm getting - - -

10 - - - RMS issues - - -?---I'm getting mixed up, I'm getting mixed up with the years because you're giving me from 2013 to 2016.

That's true, that's true.---So got three years to try to remember.

That's quite true.---I sold, I sold 457 either in 2014 or 2015.

Yes.---So the RMS with 457 is gone.

Yes.---There's no RMS issues with 538.

20

And so there was no contact that you had with any of those four men about RMS issues in relation to anything after you had sold the other property?  
---Correct.

And when did you sell it, sir?---When?

As best as you can recall?---When?

Yes.---Late '14/early '15.

30

Well, you withdrew the DA in January 2015.---So late '15/early '16.

Now, so just focussing if I can upon Mr Azzi and Mr Hawatt, did you have contact with either of them or both of them about anything else to do with 538 Canterbury Road other than trying to organise a meeting with Spiro Stavis?---No.

And you're quite sure about that?---As far as I can, I can remember, yeah.

40 Now, you've mentioned the GM, Jim Montague.---Yes.

In 2013-16 how long had you known Mr Montague for?---I'd, I'd known him for a long time 'cause he's been there for over 20 years at this council.

And how come you've known him?---Because I live in the area and I work in the area.

All right. But when I say- -?---And I, I see letters, comes from council with his signature on it. Like, at the council meetings and he's there.

All right. In 2013-16, were you a friend of Jim Montague's?---I've known him, not a friend, no.

Not as a friend?---No.

10 Was he a person who had your phone number, your mobile number?  
---Maybe.

In what circumstances would he have got your mobile number?---Because he, because I call him, speak to his secretary and leave a message, leave a message for him.

And in what circumstances did you call his secretary to leave a message for him?---I need something done.

20 And in respect of what did you need something done?---For example, the  
RMS issue for 457, that's one. How to go about the additional two levels.

Yes. Can you think of anything else in respect of which you had contact with Mr Montague in the period 2013-16?---No.

And he wouldn't have seen himself as a friend or yours as far as you're concerned?---A friend like Michael and Pierre, no.

30 So, do I infer correctly from that answer that you didn't have any fights with  
Mr Montague? You got on with him reasonably well?---Yes.

Right. And do you know how he would have got your mobile number?  
---From my messages.

You would have left your mobile number for him to call?---Yes. More than likely.

40 How many times did you have a meeting with Mr Montague, whether it was  
at council chambers or anywhere else, about any development?---It's maybe  
for 457, probably four or five times.

And did you have any meetings with him anywhere in relation to 538  
Canterbury Road?---I don't recall.

When you had meetings with him in relation to 457 Canterbury Road – four  
or five times, you say – was anyone else present?---Yes. Whoever - - -

Who else was – sorry.---I never had a meeting with him only. Once I think the mayor was there. At one he had someone else with him but I never met with Jim Montague by himself.

Was there any occasion when you met with Mr Montague when Mr Azzi was present or Mr Hawatt?---I don't remember. I remember once Pierre was present with Spiro Stavis but not with Mr Hawatt. I don't, I don't recall.

10 And on that occasion when Pierre was present with Spiro Stavis, was this a meeting with Mr Montague?---No.

A separate meeting altogether?---Yes.

And just thinking of that meeting, just while you've got it in your mind, what was that about?---That's about how to go about getting eight levels.

And was that meeting held at council chambers?---Yes.

20 And how was that meeting organised?---I've asked Pierre arrange for that meeting with Spiro if he can because I'd been trying to call Spiro for a week or two and he's not returning my calls. He said, "I'm going to council on that day. If he's available, he'll call you." That's what happened.

Now, you retained for your various development applications consultants and advisors, technical advisors. Is that right?---When you say technical advisors - - -

Architects?---Of course, yes.

30 Planners?---Yes.

And was there any – I withdraw that. I take it you thought that you needed to speak directly to the director of city planning rather than asking the people you paid for advice, for their advice as to how about applying for eight levels.---No, I wouldn't say that.

40 What would you say?---The architect and the town planner, they can advise you up to a certain thing but they can't, how am I going to, how am I going to explain myself, if I tell a town planner next door they've got eight level, why I'm getting six levels, he wouldn't, he wouldn't be able to answer me.

Why not?---He may say to me, it's a bigger site, as in land, so yes, I do have town planners, I do have architects and so on, but it is better for the architect to meet with council, a preliminary meetings before he draw any plans.

And what is the purpose of that sort of meeting as far as you're concerned, as far as you understand?---The purpose of that meeting, just to know what the, what the council would like to, to do in that area, in that location. As I

said, if, if the architect knows there's no FSR, you are limited to six levels, he'll fit as many units within that six levels, then he'll find that next door they're doing eight levels or down the road they're doing eight levels, you go to council and ask can I do the same.

Yes.---That's what happened.

10 Yes. Can I just go back to the actual meeting that was organised where Mr Azzi and Mr Stavis were present and you were talking to Mr Stavis about getting eight levels. Did you ask Mr Azzi to organise it?---Yes.

And why did you ask him to organise it rather than asking somebody else, like for example the person at the front desk?---You get nowhere.

Right.---You ask, you ask, you ask - - -

20 Why did you ask - - -?---You ask a duty planner or you ask a team leader, you get deferred and deferred and they can't give you an answer as director of town planning would, would, would do.

And Mr Azzi was one of nine or 10 councillors. Is there a reason why you asked him to organise the meeting rather than one of the other councillors? ---No, there's no reason. I know the guy.

Why didn't you approach one of the other councillors to assist in organising a meeting?---Because I don't know the other councillors personally, I know those two councillors.

30 And thinking of that particular meeting and thinking of asking Mr Azzi to help organise it, I'm not suggesting you should have approached Mr Hawatt, but I'm just asking, was there a reason why you didn't ask Mr Hawatt to organise it and instead it was Mr Azzi?---No, there's no reason. Sometime I ask Mr Hawatt about something, sometime I ask Pierre about something.

And was one of them better than the other on different subjects that were of concern to your business?---No.

40 And did you have any contact with other councillors in relation to your development business in 2013/16 apart from Mr Azzi, Mr Hawatt and I think you said the mayor was present at a meeting on one occasion?---No, I never had any other, any other calls to anyone else.

Now, just thinking of 538 Canterbury Road. Did you have meetings with Mr Montague about that application or those applications, either of them? ---I don't recall.

Was the GM someone that you would approach as a developer if a proposed development that you wanted to get up was in that GM's local area?---  
Sorry, I didn't understand the question.

I'll reframe it. Was the GM a person that you would approach in relation to trying to progress any development application, whether it's in the Canterbury area or any area where you have a development interest?---Well, the way I do it, I do it in, in steps. You go to the director of town planning first. If he doesn't reply back to you, you go to the general manager. If  
10 what I'm trying to do is what it is, in other words, I didn't, I didn't get a good answer from the, from the director of town planning as to why I, why you can get eight level, I can only do six levels, I'll report him to the general manager. Yes, I do.

I'm sorry, I just want, I didn't quite hear everything you said there. If you went to the director about trying to get eight levels and you're only told, you're told you could only get six levels - - -?---And next door to me there's eight levels.

20 And next door to you there's eight levels, then you'd take it to the GM?  
---Yes.

Now, just to contextualise this. 538 was next door to 548. Is that your understanding?---Yes, 538-546.

And then 548-568?---I don't know.

Well, when you're saying next door to you was eight levels, what is it that you have in mind there?---If, if he can get eight levels - - -  
30

THE COMMISSIONER: No, no, no. Which site had the eight levels that you were looking at and thinking I want that?---548.

MR BUCHANAN: And when you say it had eight levels, are you talking about an approval for eight levels?---Yes. He's, he's gone for eight levels.

And did you know that developer?---Yes.

40 Mr Demian?---Yes.

And did you talk to him about trying to get eight levels?---No.

Did you talk to him about trying to progress your applications in respect of 538 Canterbury Road?---What do you mean by that?

Sorry. Thinking of Mr Demian - - -?---Yes.

- - - did you ever have a talk to him about you trying to progress your applications in respect of 538 Canterbury Road?---Yeah. Like he, he introduced himself to me that he's my neighbour and he's going for eight levels. I said I'll be doing the same thing because down the road they've got eight level, I've got eight level on the other side. I'll go for eight level for sure.

And when you say down the road is eight levels, what site do you have in mind?---My other site.

10

Which site was that?---457.

It had approval for eight levels did it?---No, but it was, it was recommended by the department to have eight levels, by the Department of Planning.

Just thinking again of Mr Montague, was there any time when you had an issue or a problem in relation to the development application for 538 Canterbury Road and you went to Mr Montague? When I say, "Went to," phoned him or spoke to him?---I don't recall.

20

And you told us about the time when there was a dispute between him and Mr Azzi and Mr Hawatt that you read about in the paper, and we've sort of isolated that to the period late 2014/early 2015. Did you have any contact with Mr Montague about what was happening or people were trying to do to him at the time?---I wouldn't.

You didn't - - -?---I don't think so. I wouldn't do that because we're, we're not like, we're not close. Why would I call him and ask him?

30

Right. Did you ever talk to Michael Hawatt for example about, you know, "How about giving Jim Montague a bit of a break?"---I think we spoke about this once to, like, sort the problems, it's embarrassing and so on, but again I can't, I can't force the issue about something like that.

Can you tell us about the time that you spoke to him, meaning Mr Hawatt? Thinking of that occasion, was it face to face or on the telephone?---More than, more than likely face to face.

40

And was Mr Azzi there at the same time?---Yes.

And where were you?---At the gym at my place.

And was this during the time that as you understood it, Mr Azzi and Mr Hawatt were trying to get Mr Montague sacked?---Yes.

And I understand that you won't remember the exact words you used but what was the effect of the words you used to Mr Azzi and Mr Hawatt on that occasion?---I was trying to be a peacemaker, that's all.

Can you tell us what you said or the effect of what you said?---As I said, a peacemaker. Like, I like to sort out the problems, whatever problems there is. Jim being there for a long time and he's doing good for the community and the area, all of a sudden he, he now need to resign. I'd like to sort it out.

Did Mr Azzi or Mr Hawatt say anything as to why they were taking the approach they were taking to Mr Montague at that time?---I can't recall.

10 Did they try to defend themselves against what you were saying to them?---I don't recall. I don't recall why they ended up in that situation where they are asking Jim Montague to resign.

You don't understand that it had – I'm sorry, I withdraw that question. You didn't understand at that time that it had something to do with the employment of the new director of city planning, Mr Stavis?---No.

And prior to you raising it with Mr Azzi and Mr Hawatt, had you spoken with Mr Montague?---No.  
20

Did you ever convey to Mr Montague a message of support for him?---No.

And was there any other conversation that you had with Mr Azzi or Mr Hawatt about Mr Montague in that time that, as you understood it, there was a dispute between them and Mr Montague?---Sorry. Repeat the question again.

Yes, sure. Thinking of the time that there was, as you understood it, this dispute between Mr Azzi and Mr Hawatt on the one hand and Mr Montague on the other hand, thinking of that time, you've told us about one conversation where you tried to be a peacemaker when you were talking to them at the gym. Was there any other occasion when you raised the subject or when they raised it with you?---I don't recall. I don't know.  
30

Was Jim Montague a person who you thought was useful to you as a developer in the Canterbury local area?---To me personally?

Yes.---I wouldn't say, I, I never had anything to do like, as in direct with him only.  
40

But did you think he was a person who was useful to you as a developer with sites in the Canterbury local area?---I would say yes.

Did you try to be a peacemaker with Mr Azzi and Mr Hawatt because you thought it wasn't in your interests to have a falling out between them and Mr Montague?---No. The only reason behind that, as I said, he's been service, he's been serving, serving the area for over 20 years and everyone in the area speaks highly of him.

Did anyone ask you to approach Mr Azzi or Mr Hawatt on Mr Montague's behalf to be a peacemaker?--No.

I note the time, Commissioner.

THE COMMISSIONER: Yes. All right. We'll take the luncheon adjournment and resume at 2 o'clock.

10

**LUNCHEON ADJOURNMENT**

**[1.02pm]**