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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 2.00PM

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

THE COMMISSIONER: And we're ready to resume Mr - - -

MR BUCHANAN: Yes, Commissioner.

THE COMMISSIONER: Mr Maroun. Thanks, Mr Buchanan.

10 MR BUCHANAN: Commissioner. Mr Maroun, you've told us about having contact with Mr Stavis. Did you have contact with his predecessor, Mr Occhiuzzi?---Never heard of him.

And so the first time you dealt with the director of planning at Canterbury Council, it was Mr Stavis, is that right?---That's right, yes.

And when was the first time you heard of Mr Stavis?---I don't remember but I went to council and asked about the director of town planning, they told me who he is.

20

And you were told it was Mr Stavis, were you?---Yes.

Did you have any discussion with Mr Azzi or Mr Hawatt about Mr Stavis at any time?---Prior to this meeting, no.

And the meeting you're talking about is the meeting you were telling us about earlier today, is that right?---That's right.

30 What I'd like to do now is if I can take you through some documents in relation to your applications before Canterbury Council in 2014-2016. Could the witness be shown Exhibit 69, volume 16, please, page 20.---Sorry, my eyes doesn't help too.

Now, the page I've referred you to is on the screen in front of you and sometimes it's easier to read on the screen, sometimes it's not.---I can't read either.

Oh, okay.---My eyesight.

40 Right. Have you got glasses here that you could use?---No, even glasses won't help me.

I'm sorry?

MR GRANT: Perhaps I can help, Commissioner. He does have problems with his eyesight and he told me that glasses won't help. Sometimes he actually needs people to read the documents to him.

THE COMMISSIONER: All right. Can I – is it for all documents or is it just - - -

MR GRANT: The discussions I had, I thought it was documents on the screen further away and I'm not sure if the documents right in front of Mr Maroun, whether or not he can see it in the – Mr Maroun, perhaps if you could have a look in the folder to the left of you, the folder, rather than the screen. Does that help you looking at the folder with regard to the documents?---No, the folder, forget it.

10

Okay.

THE COMMISSIONER: All right. So the folder isn't any, that doesn't help at all?---No. And the screen - - -

And what about the screen?---The screen I can, no, I wouldn't bank on it.

All right. Mr Buchanan, what I think we're going to have to do is, if there's particular parts of a document, if we can ask Mr Maroun if he can read it on the screen, it might be different with a bigger document, and if not, if there's a relevant part you may have to read out the relevant part.

20

MR BUCHANAN: Yes. Thank you, Commissioner.

Mr Maroun, what's on the screen at the moment is part of volume 16, page 20 in our pagination, and what it is, is the first page of a development application and the development application is number 255/2014 and it's got your name on it in the middle of the page. I don't know if you can see that? Can you see your name in print where the cursor is moving up and down?---No, all I can see is a signature.

30

You can see a signature?---Yeah, but I don't know what signature that is.

And that's at the bottom of the screen at the moment. You recognise your signature, do you?---Yes.

Thank you.---Ah - - -

And which bit of writing do you recognise as your signature?---I can't see my signature anywhere.

40

Oh, you can't. There's a name given against the word, "Owner's Consent." You understood that when a DA was lodged you had to provide the evidence that the owner of the land was consenting to you lodging the DA? ---Yes, I do remember that.

And in this case, this document, it says that the name of the owner is Jimmy Maroun and there's a signature against the word, the printed word,

“Signature,” and underneath appears, “Director, Sayed, S-a-y-e-d, Constructions Pty Limited.”---That was the previous owners.

Were you a director of Sayed Constructions?---No.

Did you acquire the land from Sayed Constructions?---Yes, it used to be a car wash, they had the land in one name and the car wash in another and I’m sure Sayed rings a bell.

10 On the second page of this development application, that is in volume 16, page 21, it has an item which is, which reads, “Estimated cost of the development,” and someone has written in handwriting against the dollar sign, 11,623,693. Do you remember when lodging a DA that you had to provide the estimated cost of development?---Which involved a QS, yes.

And is that what you did in the case of 538 Canterbury Road?---As far as I remember, yes.

20 And was a quantity surveyor’s report provided to Canterbury Council along with this development application?---Normally they ask for it and if they did ask for it they should have it, yeah.

Now, there’s a statement of environmental effects which has a – sorry, this is in volume 16, page 29 – which has a received stamp from Canterbury City Council on it dated 17 June, 2014. I’m sorry, I should go back and just tell you that the development application that we were looking at earlier has a received stamp of 18 June, 2014.---Yeah.

30 So this is a statement of environmental effects for the development the subject of the development application and it’s prepared by an organisation called Think Planners.---They’re the town planners.

And did you hire them to provide supporting documentation for this development application?---The statement of environmental effect.

And the document date on the front page is 13 June, 2014.---Yeah.

40 So can you recall lodging these documents or having someone lodge them for you in about middle of June, 2014 in respect of 538 Canterbury Road? ---I don’t recall if I lodged them or the architect did.

THE COMMISSIONER: Could we go to page 22, please. Under section 11, and if we could blow up the signature.---Yeah, that’s my signature at the bottom.

That's your signature there?---At the bottom, yes.

MR BUCHANAN: Thank you. It's against the handwritten date 17 June, 2014.---Correct.

10 Now, if I can just take you to parts of this statement of environmental effects. The document describes the development as being, I'm looking at page 29, for the amalgamation of existing sites and the construction of a seven-storey mixed used development and then it goes on to describe the number of residential dwellings and car spaces. The building height limit under the Canterbury Local Environment Plan for that site was 18 metres at the time. Do you recall that?---Maybe, yeah.

20 And if I could just take you to page 48 of the statement of environmental – sorry, of volume 16. It's page 20 of the statement of environmental effects. Towards the bottom of the page against the words "building height" under the heading Relevant Control the document says "The development exceeds the maximum permitted height control." And then it goes on to make a qualification. Do you recall that the development application was for a seven-storey building which exceeded the height control which applied to that piece of land at the time?---I remember they objected it when we lodged it. The town planner said using 4.6, whatever it's called, they may vary the height as far as I remember.

When you say 4.6 do you mean clause 4.6 of the Canterbury Local Environment Plan?---Maybe, yeah.

But you were given advice about something called 4.6 were you?---From the town planner.

30 From your town planner?---From Think Planning.

Thank you. If I can take us to page 81 of volume 16. This is an annexure to the statement of environmental effects, and it's headed, "4.6 variation request, height of buildings." And the first sentence reads, "As shown on the section plans, the proposal exceeds the maximum building height of 18 metres with the proposal incorporating a height of up to 22 metres, which represents a 22 per cent variation to the standard." Now, do you remember that that was the case with the first development application that you lodged in respect of 538 Canterbury Road?---That was the second one.

40 What was the first one?---I think it was six levels. I remember we've lodged three times.

Yes. Well, in terms of timing, I will be taking you to a document about six levels but this is the earliest in time, June 2014. So this, on the documents that we've got looks like the first application and it says that the proposed height – I withdraw that. It says that the height of the proposed development would be up to 22 metres which was 22 per cent more than the 18 metres maximum height limit set by the LEP. Do you know why you lodged an

application for a proposed development which would exceed the maximum height limit that applied to the land at the time?---Because as I said in 457, I was allowed, I was allowed to go 25 metres. 457 Canterbury Road.

Yes. But you withdrew that. I know it was in relation to RMS.---I was asked. I was, I was asked to withdraw it.

Yes. And you did?---Which I did.

10 And it was never approved?---No.

So, why in that case – how does that explain why you lodged a noncomplying DA in June, 2014 for the land at 538 Canterbury Road? ---Because if I can get eight level on 457, that has RMS issue, this hasn't got RMS issues.

But you didn't get eight levels on 457, did you?---I didn't get it because of RMS but if you go back to one of the council meetings, I think it was around November, the Department of Planning did say I can go 25 metres.

20 November of what year, sir?---I'm sorry?

When you say, "Around November," November of what year?---I think either '14 or '13.

And what's the – excuse me. What are the circumstances that you're thinking of when you say the Department of Planning said you could go to 25 metres? What are you talking about there?---I read that. That came from the Department of Planning. I was at the council meeting, they gave away their minutes and everything and one of those reports it says I can go to 25 metres at 457 Canterbury Road. Then when I lodged in 2014 and I asked to withdraw it because of RMS issue, 438-446, 538-546 Canterbury Road was already zoned, it's on a B6 enterprise corridor. So, I asked, "Can I go for eight levels?"

Who did you ask?---Sorry?

Who did you ask?---Spiro Stavis, the director of town planning.

40 Yes. If you could complete your answer.---Yeah. And he said, "If you meet all objections, you need to do this, this and that," which I've called the architects and the architect did exactly what he asked for and I got my eight storeys, an extra six units.

Right. If I can tell you that the evidence that the Commission has in front of it is that Mr Stavis didn't start work as director of city planning until March 2015, and if I tell you that this development application that we're looking at here was lodged in June 2014, then it can't have been Mr Stavis who said

you could get up to eight levels for this site, could it?---Okay. So, in this case, my memory isn't, isn't spot on. In this case the town planner that did the report for 538-546, he did the same report for 457. So, he's got the report from Department of Planning to say, "You can go 25 metres."

10 And what report is this from the Department of Planning? This is quite important, Mr Maroun. What report are you talking about where you say the Department of Planning said you could go to 25 metres?---It's not me only, they were trying to rezone Canterbury Road about the heights and everything and the location I was at, it was in black and white I can go 25 metres from the Department of Planning.

And what – I'm sorry.

THE COMMISSIONER: And sorry, that location was 457?---457 Canterbury Road.

20 MR BUCHANAN: And why did you think that applied to 538 Canterbury Road?---Because it's still on Canterbury Road and I thought, I spoke to the town planner and he said, if you can eight level, you can get eight levels there.

Can I tell you this, that in the statement of environmental effects that speaks to that development application of June 2014, there is a clause 4.6 variation request, but there's nothing in it that says the Department of Planning has said that you can build to 25 metres. Why wouldn't your town planner have put that in here if that had actually been something that you'd been told? ---I can't answer this question. I don't know why he didn't.

30 Well, it suggests that it's not correct, doesn't it, it suggests your evidence is not correct- - -?---No, as far as - - -

- - - when you say the Department of Planning said you could build to 25 metres.---As far as I know it's on record, it's not something that I'm making up. If you check the records to go back to that meeting in November, I'm almost 90 per cent sure in November '14 it does say I can go 25 metres.

40 But this is June 2014. Your application was filed in June. Why did you file a - - -?---So, so that's - - -

- - - non-complying application - - -?---So it must be - - -

- - - in June 2014, sir?---So it must be '13.

And you can't explain why your architect or planner hasn't pointed to that to support the request to vary the height limit under clause 4.6 in respect of your DA in June 2014?---I don't know. That's why you paid his bill to do their job.

What it suggests is that having done his job, your planner or architect, whoever wrote this, didn't think that there was any such permission from the department, doesn't it?

MR GRANT: Well, I object to the question. How can he comment on the state of mind of the town planner? Really the question is in fact a statement as opposed to a question.

10 MR BUCHANAN: I'll withdraw the question. You hired the person who wrote this report, didn't you?---Yes.

Was your eyesight better at that time, June 2014, when it was written?
---Yes.

Did you read it?---No.

Why didn't you read it?---I don't read every, I don't read everything I get from the, like reports and stuff.

20

But weren't you hoping to make a profit out of this development?---I asked him what I can do and he said that's what you can do.

Weren't you hoping to make a profit out of the proposed development on 538 Canterbury Road, Campsie?---Of course.

So didn't you have an interest in the material that was being put forward to support your attempt to make that profit?---Of course.

30 And you didn't bother reading it. Is that what you tell us?---I took the report from him and I submit it to council. I didn't read it.

But you're reading - - -?---And even, even if I do read it I don't understand how 4.6 works.

Your eyesight was better then, was it, in June 2014 than it is today?---Yes.

How much better was it? That is to say to what extent could you read documents?---I can read, I can drive back then.

40

You could read in June 2014?---Yes.

THE COMMISSIONER: Mr Maroun, can I just check. You said that there was this report from the Department of Planning.---Yes.

I'm just a little bit confused. Your understanding of the report from the Department of Planning, which property did that relate to?---457.

All right. So your evidence is there was a report from the Department of Planning which dealt with 457 and it said you can go up to 25 metres?

---Correct.

For that site?---Yes.

Then are you saying that report was discussed at a council meeting?---Yes.

10 All right. What was discussed at the council meeting?---There was my property and other properties to be rezoned. Some went through, some didn't. I submitted my, my plans in accordance with the height that it was given to me, the minutes that was given to me at the council meeting. I submitted that in late 2014. I was asked to withdraw it a month later.

That's dealing with 457.---Yes.

20 And then is your evidence here that because you got the 25 metres for 457 and that was on Canterbury Road your view was the same height limit or increase in height limit should apply to 538 because it's also on Canterbury Road?---If that was the same year. I'm not too sure. But what I'm trying to say, Commissioner, is the way I do engage people like consultant, like a town planner I can't tell him what to do. I'll tell him I've got this site. What do you think I can have on it? Then he will say to me you can do let's say whatever number of units. He writes the report. The gentleman asked me if I read the report. Even if I read the report I don't understand the words or the clauses that he uses in his report so I mainly depend, I always depend on the architect and the statement of environmental effect which is, which is the town planner.

30 MR BUCHANAN: So you knew did you in June, 2014 that you were lodging a non-complying development application and you intended, did you, to overcome the obstacle of the 18 metre height limit with a clause 4.6 submission. Is that your evidence?---I do remember very well it was only 18 metres, yes.

And do you remember very well that the proposed development was for 22 metres?---Not very well, no, but I know that I was varying the heights.

40 Right.---Listening to the town planner using the 4.6. If you ask me what 4.6 means I don't know what it means.

Can I ask you this, Mr Maroun, your advisers must have told you what it was you were applying for mustn't they?---Yes.

They must have told you oh, we're writing an application and we're drawing plans and supporting documentation for something that is going to be 22 metres when the limit is 18 metres. They must have told you that, correct? ---Yeah.

And you must have agreed to lodge it in that circumstance?---Yes.

So you knew that you were lodging a DA which did not comply but you hoped to use this clause 4.6 device to overcome the fact that it didn't comply so far as building height was concerned?---To vary, to vary the heights, yeah.

10 Now, I apologise if this seems like a silly question but I need to ask it.---No, feel free.

Why didn't you instead tell your planners and advisers and architects please design me a development that will comply, that will be 18 metres high if you tell me that that's what the building height limit is?---Well, if, if they can do 22 instead of 18 why should I ask them to do 18? If they think they can vary the heights I prefer to get the maximum.

20 Because it's more profitable for you if it proceeds?---Absolutely. Absolutely.

Now, can I take you to page 85 of volume 16, please. This, sir, is a letter to you, it's a copy of a letter to you that was written to you by a Mr Morad, M-o-r-a-d, who was a planner at Canterbury Council, and it's dated 25 June, 2014. It's addressed to you care of your architects and it's in respect of the DA 255/2014 for 538-546 Canterbury Road, Campsie. Now, did you, I assume you don't remember reading it, particularly seeing you can't, as you sit there now read it. Is that right?---Go on, yeah.

30 Did you read correspondence from council that was received by your architects in respect of your DA?---If I do receive anything from council direct to me I'll send it to my architect.

Right.---So the architect in turn deals with it with the town planner and they both can answer the queries or respond to those letters much better than me giving them instructions on what to do.

Did you architects draw your attention to what it was that council was saying to you in their letters?---Yes, more than likely, yes.

40 Well, I just want to read you part of what this letter says, and it's the third-last paragraph. "If a gift is made to a councillor or council officer by you or anyone with a financial interest in the application after the lodgement of the application and prior to its determination, that gift must also be disclosed by completing the disclosure statement. These requirements are in accordance with section 147 of the New South Wales Environmental Planning and Assessment Act 1979." Was your attention drawn to that statement in a correspondence from council - - -?---Sorry, who - - -

- - - about this development?---Who wrote about, who wrote this?

The council planner.---If a gift, can you - - -

To you care of your architect.---Can you, can you read it out to me again?

10 Yeah, sure, sure. What it's saying is, the advice I suggest is if you make a gift, a political donation to a councillor between the time you lodge the application and the time it's determined, either by being refused or approved, then you've got to declare it in a form called a disclosure statement. So that was the thrust of the advice there.---Yeah.

Was that drawn to your attention?---Never heard of this before.

Okay. You didn't know it was a requirement at the time?---No.

Okay. So did you make any gift to any councillor or to council between the time you lodged the DA in June 2014 and the time it was determined?
---Never before or after or during, no.

20

Excuse me a moment. Page 86-88 of volume 16, I don't expect you to be able to read it, but I'll just indicate what it is. It's an email in respect of – I'll start again. It's an email from Adam Burns at Think Planners. Does that name ring a bell?---Yes.

30 It's dated 8 July, 2014, and it's addressed to council and it says, "Please find attached a submission in relation to the draft LEP currently on exhibition." And then underneath that there's a document which is a submission to the Canterbury City Council dated 8 July, 2014, in respect of its Residential Development Strategy, and in the first instance it's in respect of 445-459 Canterbury Road but over the page at page 88 it's in respect of 538-546 Canterbury Road, so it's in respect of two properties.---Yes.

Do you recall that there was a submission made on your behalf to Canterbury Council as to whether the LEP should be amended at all in respect of 538-546 Canterbury Road?---The LEP should be amended?

Yes. The limits on it should be changed at all to 25 metres?---I don't recall.

40 So, you don't – I withdraw that. You understand, don't you, that there's a difference between getting approval to build something and having a law that says, "This is the limits of what you can build on that site"?---Comply with or not comply, yes.

Yes. And you understood, didn't you, in 2014 that there was a process going on at Canterbury Council of reviewing some of those limits for some of the land in the Canterbury local government area with a view to changing the limits and maybe increasing some of them?---Maybe.

Did you know about any attempts to rezone sites in Canterbury local government area in about 2014 or 2013 even?---Yes.

And did you instruct your planners to put in an application on your behalf to increase the height limit for any development that could be put on 538-546 Canterbury Road, Campsie?---No.

You didn't instruct them to?---No. I instruct them to do their best.

10

So if Think Planners wrote a letter to Canterbury Council on 8 July, 2014 asking for the review of the LEP, called the Residential Development Strategy, to include 538-546 and increase the height to 25 metres, that was without you even being consulted. Is that what you tell us?---Absolutely.

And you have preferred that that not be done? Is that what you're telling us?---No. I didn't say that.

20

Well, that's what I'm just trying to explore.---Okay. All I'm saying to you is I've engaged Think Planning, which is Adam Burns, to do his best. Now, if he knows there's going to be a variation in the, in future or 4.6 or all this stuff, he doesn't have to talk to me about that, because even if he spoke to me about it I wouldn't be able to, to assist him or give him any instructions. He's being paid to do a job to the best of his knowledge.

But if he asked you for your instructions for him to make an application for the limit to be changed from 18 metres to 25 metres at 538 Canterbury Road, wouldn't you have said, "Go for your life"?---Of course.

30

And so do you think there's a chance that you did have a conversation with him like that?---Yes. If he, if he thinks I can, I can get an extra level, I wouldn't say no to him.

40

Can I take you please to page 89 of volume 16 in the first instance. I want to take you to a reasonably lengthy letter, again by Mr Morad, the planner at Canterbury Council, this time dated 14 August, 2014 and it's about the development application for 538-546 Canterbury Road, Campsie and it is three and a half pages of what are described as, "Issues for your attention." Now, do you recall having a lengthy list of issues with your development application being drawn to your attention in about August, 2014?---No. Any, anything that comes back from council, the architect or the town planner would deal with it.

And doesn't the architect or the planner need to come to you for instructions given that it's your development not theirs?---My answer to them will be do the, do your best.

And is do your best, as far as you're concerned does that mean do your best to give me the biggest possible development that I can put on that site?
---Yes.

So no one told you that council was saying oh look, there's problems with your development application?---I don't recall.

10 I want to suggest to you that it's likely that your attention was drawn to the fact that council had written this letter and that you were made aware of a lengthy list of problems with your development application for 538-546 Canterbury Road, Campsie. What do you say?---That may well be the case because when I got the email from council about withdrawing 457 Canterbury Road I spoke to the architect and I spoke to the town planner. They were saying it's up to you to withdraw it or to keep it. On a commercial decision I withdraw it because I was told it's going to be refused any, all the submission. Stuff like that, yes, I do you can say respond or act to it myself but when, when, when, when you talk about if you can have 20 units or 25 units I'll tell them to do their best.

20 THE COMMISSIONER: You just answered in respect of 457 and you said it was a commercial decision I had to make.---Yes.

Even with 538 if the council is saying there are difficulties with your application, to try and resolve those difficulties might involve more expense and more delay. Do you agree with that?---Absolutely.

30 And that may impact on your commercial decision about what you do with the site. Do you agree that that's possible?---Yes, Commissioner. First of all, 457 was greater money.

No. All right.---And 538 I wasn't told by council that it's going to be refused.

No, no, no, no. But it's more if there are going to be delays or you've got to do extra things which are going to cost you more money that you agree with me that that may impact on your commercial decisions you've got to make about the site?---Absolutely.

40 And in those circumstances wouldn't your architect or your town planner want to at least tell you what's going on so that you can assess the commercial impact on you?---That's right.

But you can't remember the architect contacting you and saying we've got a letter from council and the council is raising all these issues. I've got to discuss them with you?---I remember when we lodged for seven levels it was, what's the word, it was a maybe situation using the 4.6 variation. What happened after that it's been assessed, declined and I lost my, my

submission to council. Then I re-lodged probably a year later. I can't remember. I re-lodged again and I even changed architect.

So in between being told maybe and then it being assessed and declined you would have had discussions with your architect or your town planner about what was going on?---Yeah, they declined the 4.6 as far as I can remember then we re-lodged for six levels for 18 metres. That's when we got the approval for 44 units. Then before we are ready to start that job speaking to my town planner and architect they said try again and that's when I went
10 and, I went and saw Stavis, Spiro Stavis and he told me what to do and I've done that.

MR BUCHANAN: Can I just leave the letter from council for the moment, I'm going to come back to it, but my attention's been drawn to some other evidence that's before the Commission that might be what you're thinking of when you say that at another meeting the department had said that you could build up to 25 metres on 453. Do you understand what I'm doing now? I'm moving back to what you raised then about that subject?---Yes.

20 Because in volume 11 at page 191 there is an officers' report to a meeting of council. The meeting of council was held on 2 October, 2014. And, Mr Maroun, the Commission knows that on 2 October, 2014, council finalised what it proposed to ask for in terms of amendment of controls in the LEP for a whole lot of different sites, and when I say asked for, put forward a planning proposal to the department for what is called Gateway
Determination to see whether the department would agree or not and if the department did, then it goes to the next stage and it goes on to public exhibition and then they've got to look at submissions and then they consider whether or not it or the department is going to change the controls.
30 But there's something that is in our documents which might be what you were thinking of. At page 191, if we can blow up the plan that appears at the top there, can you see that there is a plan of a block bounded by Perry Street, Una Street, Canterbury Road and Stanley Street?---(No Audible Reply)

You might not be able to see the street names but can you see the block?
---Yes, I can see Stanley Street.

40 And on the corner there, can you see there's in pink and then the words written over it "25 metres (eight storeys)".---Yes.

And we think that is probably 453-459 having regard to the other property numbers which are in very small print inside the boundaries of that block. And so what I'm suggesting to you, if you just give me, if you can be patient with me, is this is a recommendation to the council that was being made by council officers, council planners, and amongst other things it was for a 25-metre limit to be put on that block at 453-459 Canterbury Road. And then if we go to page 228, none of this is my cleverness, I must advise,

Commissioner, but rather that of my instructing solicitor, at page 228 the resolution appears. It starts on page 227 and then if we go over to 228, the third dot point is, "Land bounded by Canterbury Road, Stanley Street, Perry Street and Una Street, Campsie to be rezoned B5 with a combination of height limits of 14 meters, 18 metres and 25 metres as shown on the maps in the report and no FSR." And so what that means is that council decided we want to put forward a proposal to change the LEP to increase the height limit to 25 metres on the property 453-459 Canterbury Road. And that was 2 October, 2014.---And when did I do the DA for 538, for the eight level?

10

You lodged that in June, 2014. So, this is after you lodged the DA.--- And I got the DA before the - - -

You lodged the DA before this was decided upon by Canterbury Council. I'm not saying you mightn't have seen something about it beforehand but it was decided upon by Canterbury Council on 2 October, 2014.---Yep.

I'm just wondering whether that is what you might have had in mind when you talk about the department saying 25 metres would be okay for a related site?---I thought that was approved by the department.

20

No, no. It was a much earlier stage than the department approving it. The department hadn't even seen it at that stage, let alone approved it. This is something that the council resolved it would put forward to the department to try to get the department to approve, if I can use shorthand language. Anyway, I just draw that to your attention. Is there anything that you'd like to say in response?---No.

Thank you. So, going back then to the letter from council addressed to you care of your architects, page 89, volume 16, dated 14 August, 2014. The first dot point in the middle of the page, just over halfway down the page, reads as follows, "The proposal does not comply with the building height under clause 4.3(2) of the Canterbury LEP, which permits a maximum building height of 18 metres. Consideration has been given to your request under clause 4.6 of Canterbury LEP 2012, to vary the building height standard. However, variation to the height is considered excessive and cannot be supported in its current form." Do you recall being made aware of that opinion on the part of council in response to your development application?---Who was this architect? Which, which, which architect is that?

40

It was sent to Rudolfsson Alliker Architects.---RAAarchitect, yep.

Do you remember who they were?---Yeah.

Had they designed any of the plans for the 538 DA?---For the original ones, yes.

Yes. And so, did they draw your attention to a last of problems that the council had identified in respect of your first DA for 538 Canterbury Road, one of which was that at the stage they were looking at it, they weren't inclined to agree to vary the height limit under clause 4.6? It's likely that was drawn to your attention, isn't it?---Yes.

Now, did you approach Mr Hawatt or Mr Azzi when you had problems with your development applications with Canterbury Council?---No.

10 Did you ever approach them or either of them when you had problems with a development application at Canterbury Council?---I approached them on, on 538 when I lodged the eight levels, when I changed the architect and lodge the eight levels. I did speak to them about 457, about the RMS issues, yes, but when I lodged 538, definitely no.

What about after you got a response from council as to what they thought about your DA for 538, seven levels?---I left that to the town planner.

20 Well, what I want to suggest to you is that if it's likely that council's views against approving the height of 22 metres in your proposed development for 538 Canterbury Road have been drawn to your attention and given that you had these two councillors as long-standing friends of yours with whom you socialised, you would have raised the subject with them.---I don't blame you for, for you to say that or think that but I can, I can assure you, I can promise you I did not speak to them which I don't do that anyway. That's what I remember well. I didn't speak to them about it.

30 And what enables you to say you can remember it well that you didn't speak to them?---Because I knew it's not going to be approved. I would only get it approved with the variation of the, of the height and I didn't want to put them in a situation where they're doing anything for me in that respect. But all I, all I've asked them to do for me is arrange for a meeting with sometime the, I think once the general manager and once the director of town planning. For something like that I don't involve councillors.

You had a very close relationship to Pierre Azzi and Michael Hawatt in this period didn't you?---Yes.

40 And you were in regular contact with them weren't you?---Yes.

You had numerous telephone conversations with them didn't you?---Yes.

And are you trying to tell us that you never raised with them a problem that had been I suggest to you drawn to your attention by your architect as to council's unfavourable view about your development application?---That's right because it doesn't comply.

THE COMMISSIONER: That's a what, sorry?---It doesn't comply.

MR BUCHANAN: And so did you withdraw the development application?---No. I let it run until, maybe I did. I don't remember.

Well, you didn't.---I didn't?

No.---I don't remember.

10 Well, you amended it but that's not the point. I want to just raise with you this. You're paying out money aren't you by way of holding costs and interest payments - - -?---I don't know if I have settled on the property yet when that was happening.

Did you have an option?---Yes.

And you exercised that option did you to purchase it?---I don't remember.

Well, did you buy it?---Yes, I did.

20 When did you buy it?---I don't remember.

When did you buy it in relation to lodging the development application?---I don't remember the dates.

Was it in 2014 or 2015 that you bought it?---Maybe even before.

And you're having to pay fees to architects and to planners?---Yes.

30 And was that something you were happy to do or would you have preferred to save that money and spend it on something else?---The way, the way I work, if I'm buying a site or optioning a site I speak to my architect and my town planner what can I have on this site? They give me the minimum or the maximum. In this incident they gave me a pretty sure or confident they can have the height varied from six levels to seven levels. That didn't happen so we went back to the six level and I was busy doing something else, another project. I haven't started Campsie yet when I spoke to Adam Burns and he said you can go the property for eight level because there's spots in the area that are going eight levels. So we tried that when I went to Spiro and asked him if I can go eight levels. So I've changed from seven to
40 six to eight.

And can you just recall if you can, please, for us, can you remember when it was that you changed from seven to six?---No. I don't recall.

Do you remember the circumstances in which you changed from seven to six?---When you say the circumstances, I was knocked back, I couldn't do seven.

And who, how did you find out that you were knocked back on a bid for seven?---The architect must have told me because the architect is the applicant.

Excuse me a moment.

THE WITNESS: I'm not a hundred per cent the architect was the applicant but 99 per cent, yes.

10 MR BUCHANAN: Oh, look you could be entirely right, Mr Maroun. I just want to make sure.

THE COMMISSIONER: Is it page 20?

MR BUCHANAN: Yes. If we could show on the screen again, please, remember we looked at the development application a little while ago? ---Yeah, you mentioned it, yep.

20 And we looked at your name and it's your name underneath the words, "Applicant and site details."---Yep.

So, I think you were the applicant in this case.---Maybe.

And how did you learn that you weren't going to get approval for seven storeys?---As I said, more than likely the architect told me.

And do you recall having a discussion with your architect about what you'd do about that?---Did I speak to the architect or to the town planner?

30 I don't know, I'm just asking you what happened. How come?---I don't recall. Like, what I'm trying to say when something like this happened, I either speak to the architect or town planner.

40 Yes. Now, just for completeness, I wonder if I can take you to volume 11 again, page 223. You remember that we looked at this earlier, this is the decision that council made on 2 October, 2014 as to what proposal for planning in the local government area it would make to the department for changes to the LEP, for changes to building controls in the LEP and there's a long list on the decision, starting at 223 and going over a number of pages, but at the end of the day 538 Canterbury Road isn't in the list of properties that council decided it would try and increase the building heights or the FSRs of. You must have found that out at some stage, that 538 was not included in council's decision as to what it would put forward to the department to increase the height controls so far as they affected 538 Canterbury Road?---Not, not me personally. I wouldn't find out, probably the town planner.

And the town planner would have told you?---Yes.

Or did Mr Hawatt or Mr Azzi tell you?---No. I didn't speak to them about that.

Did you - - -?---When I - - -

10 Yes, go on.---When I went for the eight levels there was only instructions from the town planner you can get the seven level and he said now you can get the eight levels but there's a precedent in the area. I go, I said, "Go for it."

It just seems a little strange. If we look at page 222 the proposal for all the different properties that were to have their building controls increased that was to go forward to the department from council, that was moved Councillor Hawatt, seconded Councillor Azzi. Didn't you know that?---No.

20 They never talked to you about planning controls in the local government area?---No. And even if, if they spoke to me, as I said, I've got no say. If the town planner speaks to me or the architect speaks to me about LEP and DCP and that type of wordings, I wouldn't be able to understand.

But you did understand, didn't you, that there were building controls that had the effect of law, that controlled what you could build on a given site? ---All I know is how many levels you can go, but the building control, if everything is right, your setbacks and, and all the rest, I can't, I can't be involved in that. I don't know what they're talking about.

30 I want to suggest to you that you're trying to make out a state of ignorance which is very, very, very unlikely in your case.---A state of?

Ignorance.---What do you mean by that?

40 Well, you're pretending that you didn't understand about building control when they affected the profitability of your business.---Maybe I'm not explaining myself well enough to you. What I'm trying to say, if I employ a consultant that I trust that he'll do the right thing by me and to do his best and his best is whatever, I can't tell him why don't you change from doing that to do something else to get the goal that you, that you want. I can't advise a town planner how to go about this. I'm not trying to be hard or arrogant or ignorant or whatever, all I'm trying to say is, I leave that to the architect and to the town planner. Sometime they talk a language, it's like Chinese to me. And that's, and that's the honest truth.

Didn't you pay close attention to how your applications, I'm talking now not just about the first DA, but about your applications in respect of 538 Canterbury Road were progressing at Canterbury Council?---No, 'cause definitely I wasn't, I wasn't the applicant the second time.

We've seen that the first time you were.---You won't find the second time because even the first time, I don't know how my name was, was on there.

You've signed it, sir. We've seen your signature. You've agreed it's your signature.---Okay. That, that just to tell you what I believe what the architect tells me to do and the town planner.

But you aren't interested, are you, in influencing the course - - -?---I can't influence it.

10

- - - that your development proposals take?---I can't influence them.

Well, of course you can influence them.---If I know what I'm talking about, yes, but I don't.

But you do know, don't you. You understand about planning controls?
---No.

20

And you understand, don't you, about trying to get planning controls varied where they prevent you from achieving a higher lot yield?---No. Someone, someone has, someone has to explain that to me, to vary code or to vary a section in the code or whatever. I don't understand the control, no.

And you understand, don't you, that so far as concerned Canterbury local government area that the people who made the decision in the first instance at Canterbury Council were people like Spiro Stavis, the director of city planning? This is about planning controls and whether a particular proposal could get through them or not?---Yeah.

30

And then you understood, didn't you, that the council itself made decisions about whether a particular development could get through planning controls or not?---Yeah.

Didn't you?---Yeah.

And you knew that your friends, Michael Hawatt and Pierre Azzi, were members of that council, didn't you?---Yes.

40

And so they had a say, didn't they, in the decisions that were made on your applications that were decided by the council, didn't they?---I don't know about that.

Well, of course you knew that, didn't you?---No.

You didn't know that two councillors who are members of the council that you did know made decisions about your planning proposals would take part in those decisions. Is that what you're telling us?---I can only say yes or no if I see them at the meeting. If I am at the meeting, I see them, they're

supporting my application, yes, and to, and to, and to prove that to you, when I got knocked back when they both were there, why didn't they support it?

Can I ask you, Mr Maroun, you retained you've told us consultants to do their best, exercising the skills that they possess to advance your planning proposal or application for development. Is that right?---Yes.

10 Is that how you treated Michael Hawatt and Councillor Azzi, as your consultants to do their best to advance your planning proposal or development applications?---Is that what I told Michael Hawatt and Pierre about what?

As far as you were concerned - - -?---Yeah.

- - - were Michael Hawatt and Pierre Azzi consultants that you were paying to advance your planning proposals or development applications?---I was paying Michael Hawatt?

20 Yes.---No.

Pierre Azzi?---No.

Were you relying on them as your consultants to advance your interests in respect of your development applications and planning proposal to the extent that they could?---No.

30 But you know that they had power on council, don't you?---Yeah, like everyone else.

Well, they weren't like everyone else, were they? They were the two most powerful people on Canterbury Council, weren't they?---I don't know about that.

Well, you knew that, didn't you?---How am I supposed to know?

40 You knew who controlled the numbers on Canterbury Council.---I know the mayor. He's, he's, he's supposed to be the strongest. None of them was the mayor.

And did you understand that Mr Hawatt and Mr Azzi had a special relationship with Mr Montague?---No.

Did you understand that they had a special relationship with Spiro Stavis?---No.

Did you understand that they could organise for things to be done in respect of your applications by talking to Spiro Stavis?---I asked for that.

You asked for – you’ve told us you asked for one meeting.---Yes.

But in fact you had to deal with Spiro Stavis on a reasonably regular basis, didn’t you?---No. Only about twice or three times, if that.

Excuse me a moment. Now, were you – I just want to just finish off with this question I was asking you about the decision by council as to which properties would have their building controls loosened, that is to say that
10 meant you could build higher. And I pointed out to you that when council made that decision on 2 October, 2014, 538 Canterbury Road was not included. Did you ever discuss with Councillor Hawatt or Councillor Azzi as to why 538 had not been included?---That’s the first time I’ve heard of this, to that - - -

Did you ever have a discussion with either of them?---No.

About whether something could be done to ensure that your property got the same benefits as the other properties?---Yes, I did discuss that. When I
20 went and saw they referred me to Spiro or Pierre referred to me to Spiro. I went and saw Spiro. That’s when, that’s when I know, when I knew that there’s other projects in the area going up eight levels.

When you say going up eight levels, they weren’t actually going up eight levels. This is a changing of the building controls that council was going to ask for.---No, they’ve started a job down the road doing eight levels and that’s where the town planner, which is Think Planning, Adam Burns, he knew about it because they checked with council whether they’ve got that approval what they got lodged.
30

And do you remember what the address was of that property, that other property?---It’s Canterbury Road near Canterbury. I don’t know the exact address.

And was - - -?---Across from Wonga Street I think it is.

I’m sorry?---Across from Wonga Street.

And is that 211-220 or 222 Canterbury Road?---Not too sure.
40

Near Canterbury Station?---No, it’s further up near Wonga Street.

THE COMMISSIONER: Is that the one you said Charlie Demian - - -?
---No, Charlie Demian is next door to me.

MR BUCHANAN: I’d like to put to you if I can a few things that happened in relation to your development application, your first development application for 538 Canterbury Road and the first thing I just need to put to

you is page 100 of volume 16 just so that you can see, or so that we can all see that by 4 December, 2014 a meeting was being held of council, it was called the City Development Committee, essentially council and it was in respect of 538-546 Canterbury Road, Campsie that same DA 255/2014 and what we're looking at on the screen is what's called the officer's report to the CDC and it says under the heading Summary, "The proposal involves the demolition of existing structures and construction of a six-storey mixed used development comprising two levels of basement car parking." At some stage between June of 2014 when that letter was written to your
10 architects saying there are these problems with the DA and December of 2014 the proposed development was reduced from seven storeys to six storeys and the height was a height of 20.25 metres. Now, does that accord with your recollection?---Yeah.

If I can just go back in time though, the process as you understood it I take it included a recommendation being made by the Independent Hearing Assessment Panel or IHAP and the recommendation they would look at the development application and they would make a recommendation to the council or the CDC. You understood that to be the process at the time?
20 ---Yes.

And the council officers made a recommendation to the IHAP, the IHAP considered it, they looked at it, wrote a report and made a recommendation then on to the council. You understood that that as the right process?---Yes.

I want to suggest to you that on about 14 November, 2014, you were told by council that the DA would be considered by the Independent Hearing Assessment Panel on 24 November, 2014. Now, do you remember being told in advance, "Oh, the IHAP meeting's going to be on a particular date
30 for the first DA, for 538 Canterbury Road"?---Told verbally or - - -

In some way? Learning in some way that this was going to happen.---If I was the applicant, yes.

You'd expect to be told?---Yes.

Did you go to the IHAP meeting and address it? It's not councillors, it's - -
-?---Address it myself?

40 Yes.---No.

Did a consultant address it for you?---I remember once Adam Burns spoke at the meeting but I'm not too sure whether it was the IHAP meeting or the council meeting.

And was this in respect of the first DA?---I'm not too sure but I don't speak at meetings.

I'm sorry?---I don't speak at meetings.

I understand. If we can turn, please, to volume 17 and to page 301. I don't expect you to be able to read this on the screen, if you can't read small print, sir, but you might be able to see that what is on the screen is a table of data and what it is, is a table that sets out data that's been extracted from Mr Hawatt's mobile telephone, and what's set out on the table is data as to SMS messages being sent to Mr Hawatt's phone and SMS messages sent from Mr Hawatt's phone. So, do you understand the nature of what it is that's being shown in front of us?---SMS from, from me to Hawatt?

Amongst other things, yes. Well, indeed, sorry, this table is exclusively messages from you to Mr Hawatt and from him to you.---Okay.

And if we go, just quickly flick through, there's a board five pages of them running between 31 August, 2014 through to 5 April, 2016. I'm reminded that one of the messages is in fact a message involving Mr Stavis rather than you, but it's about your site. We'll come to that in due course. If I can just take you to messages 8, 9, 10 and 11. I'll read them out to you. Message number 8 in this table on page 301 is to you and it's sent on 19 November, 2014. Remember that I said that the meeting of the council that considered your DA was on 4 December, 2014. So, we're talking about a little while beforehand and about a bit over two weeks beforehand and it's at 1.05pm and it says – the message to you from Mr Hawatt reads, "Can you come to Oatley for coffee?" Mr Hawatt lived at Oatley, is that right?---Yes.

Message number 9, a reply from you a minute later and it reads, "I'm dizzy from a toothache and I'm on painkillers so I can't drive at the moment. If you can, come to mine," meaning come to your house, I take it?---Yeah.

Number 10 is a message to you from Mr Hawatt and it reads, it's one minute later – I'm sorry, no, it's about 11 minutes later and it reads, "Okay, I will meet you at the gym close to you." And then there's a message at 6.38, a bit over five hours later, to you from Mr Hawatt saying, "I will see you later tonight." Now, it looks there as if there's an attempt by Mr Hawatt to meet up with you and you say, "Well, I can't come to your place," and he says, "Well, how about we go to a gym close to you?" Do you have a recollection of that exchange at that time? This is about two weeks before the council meeting.---No.

Excuse me a moment. In saying, "The gym close to you," it sounds as if it's not your gym, doesn't it? It sounds as if it's some other gym.---There's two gyms.

And it'd be the other gym at George Vasil's office or behind George Vasil's office?---Maybe, yes.

But you don't know of any other gym?---No. They're the two gyms we used to go to.

Can you tell us what the gyms were, please, just so we're clear about it.
---Gym for fitness. Weights and bikes and treadmills and - - -

And where was that that was close to you?---In, in Homer Street in Earlwood.

10 And that wasn't anything to do with George Vasil's real estate agency or a gym near it, next to it?---There's a gym next to a property that he owns. I don't know who the gym belongs to.

Can I tell you this, that the meeting of the IHAP about your DA for 538 Canterbury Road was on 24 November. These are SMSs being exchanged on 19 November and you were told on 14 November that the DA would be considered by the IHAP on 24 November. So, is it possible that there was a meeting that you had with Mr Hawatt at which you discussed how the IHAP would deal with your development application?---I can't, I can't, I can't
20 remember bit if that's the case - - -

Is it – I'm sorry - - -?---If that's the case, either the architect called me or I got something from council.

But did you then discuss it with Mr Hawatt?---I don't remember.

I want to suggest to you that the likelihood is that you did discuss it with your friend, Councillor Michael Hawatt.---Maybe. More than likely, maybe.
30

You wouldn't hide it from him, would you?---No.

THE COMMISSIONER: Can I just ask, the gym in Homer Street, is that called the Olympic Gym?---Maybe. Yeah. I'm not too sure.

MR BUCHANAN: We're talking about the one close to George Vasil's office?---Yes. There's a café next door to it as well.

Excuse me. Did the gym next to George Vasil's office, did it have bikes and treadmills or was it a weightlifting gym?---It's mainly weightlifting.
40

Yes. More weightlifting than fitness?---Yes. My one had treadmills and bikes.

Thank you. And so, that meeting might have been at, and you gave us the name a moment ago - - -

THE COMMISSIONER: Olympic?

MR BUCHANAN: No, not Olympic, sorry Commissioner. You gave us another name, something Fitness?---I didn't, no.

Can I show you another document now, sir. This is a set of call charge records, that is to say it's data about telephone calls that are made between particular phone numbers. And these seven pages is a set of call charge records for contact between your number and Michael Hawatt's number. It commences on 11 July, 2013 and it goes through to 5 April, 2016. And if I
10 can address the Commissioner, but if you could listen as well.

Commissioner, these records are not complete. They are based on raw data which has been supplied by the service providers and as before, if a party wishes to review the raw data they should contact the solicitor instructing the Commission to make arrangements. There is in this table an adjustment that has sometimes been made where it's necessary to adjust the start time of the line being opened for daylight saving. I'm reminded that it's for SMS contact only and those entries are bolded and I can see for example two entries towards the bottom of page 3 by way of illustration.
20

Now, when I said that the data is incomplete, there are some illustrations where it would seem fairly apparent that it's incomplete, for example, if one goes to page 6, from 1 December, 2015 to the end of the page, it can be seen that all the data that is there is calls from Mr Maroun's phone to Mr Hawatt's phone and not vice versa, which is inconsistent, as can be seen from the highlighting of the pattern of communication between the two phones in the preceding years. So that's the most obvious illustration of incompleteness.

30 I will ask one question of you or two questions of you, Mr Maroun. Can you assist, firstly your phone number was [REDACTED] --Yes, that's my number.

And Mr Hawatt's number was [REDACTED] ---I've got about 15 numbers.

For Mr Hawatt?---No, no, for me.

40 For you?---For me. I've got, at the moment I've got 11 numbers within, within my company.

Right.---So I do know those 11 numbers, or I know most of them, but I don't know all the numbers.

Is there somewhere where they're all assembled or collected in one place?
---It's from Optus.

Optus?---Yes. Used to be - - -

And so we've got the names of four of your companies.---Used to be Vodafone before.

Right.---Now it's Optus.

And when did it change over roughly?---Probably about three years ago.

10 Thank you. After the phone with the number ending [REDACTED] which was the number that you most frequently used?---[REDACTED]

Right. After that number what was the number you most frequently used?---The one ends up with 5-5-5.

And what's the beginning of, what are the starting digits?---I can find out for you. I think it's [REDACTED]

[REDACTED] what's the rest of it. [REDACTED] I've got the number on my phone.

20 Could the witness have leave to access his phone to find that number, please?

THE COMMISSIONER: Yes.

THE WITNESS: Can I have someone to help me, please?

THE COMMISSIONER: Yes, of course.

30 THE WITNESS: Sir, I can't give you that number now.

THE COMMISSIONER: It's not on your phone?---It's not on my phone. There's another number on my phone which is a 1-3-0-0 number and when I call this number the other phone rings but I've lost this other phone probably about last week. I think I need to ask one of the kids if they still remember the number.

All right. And that was the other number you said ended in [REDACTED]---Yes. There's a lot of [REDACTED]

40 MR BUCHANAN: Commissioner, I tender the call charge records for contact between Jimmy Maroun and Michael Hawatt.

THE COMMISSIONER: The call charge records for contact between Jimmy Maroun and Michael Hawatt covering the period though not complete of 11 July, 2013 to 5 April, 2016 will be Exhibit 147.

#EXH-147 - CALL CHARGE RECORDS BETWEEN JIMMY MAROUN AND MICHAEL HAWATT COVERING THE PERIOD 11/07/2013 TO 05/04/2016

MR BUCHANAN: With your permission, Commissioner.

THE COMMISSIONER: Yes.

10 MR BUCHANAN: Mr Maroun, if we go to page 3 of this table we can see that between 14 November, 2014 – if you assume that that was when council advised you that the DA would be considered by the IHAP on 24 November, 2014 – and 24 November, 2014 when the IHAP met, there are a number of contacts between you and Mr Hawatt. By my counting there are 11 including SMS messages. Was there any contact that you had with Michael Hawatt in that period – here the period is 17 November, 2014 to 19 November, 2015 – where you and he talked about the IHAP meeting considering your DA?---Is that for the six levels?

20 Yes, sir.---That's already been approved or been recommended for approval, isn't it?

Well, it hadn't been approved. It hadn't been indeed even recommended for approval by the IHAP until 24 November.---For approve by IHAP or by council?

Well, it wasn't considered by IHAP until 24 November and so what I'm asking you about is you were told by council, I'd like you to assume, on 14 November that the DA would be considered by the IHAP on 24 November and then there are that series of phone calls and messages between you and Mr Hawatt between that date, 14 November and 24 November, and my question is, given the frequency of the contact between you and Mr Hawatt in that period, it's likely, isn't it, that you and Mr Hawatt talked about the consideration of your DA by the IHAP?---I thought it worked the other way around.

30

In what way, sir?---That council recommend the approval to IHAP. Isn't that the case?

40 It can.---So if the case is recommended for approval, for IHAP, it's already been done by council.

I see. So you were of the view that if the officers made a recommendation of approval, then as far as you were concerned you already had the approval?---From council. Yeah, it has to go before IHAP.

And then it has to go before the council itself.---Yeah.

Yes. Well you know that?---No. I thought it goes to council, then IHAP, then that's it.

Excuse me. Just excuse me one moment. So, are you saying to us that you didn't discuss this with Michael Hawatt for a very good reason – you didn't need to because you were confident that you had council's approval, is that what you're telling us?---No. I was told it's been recommended for approval by the architect, maybe, and it's going to, when I got to know it's going to IHAP, the architect said to me, "It has been recommended for approval from council." Then after that, I don't know what, what, what the procedure is. To my knowledge it goes to IHAP and that's it.

Well, that's not your knowledge. You know full well that it goes from IHAP to either the City Development Committee or council for decision, don't you?---Before it goes to IHAP, doesn't it get recommended for approval?

That's not an answer to my question.---What's your question, sorry?

20 You know full well that the IHAP does not determine development applications don't you?---No.

You knew that in 2014-2015-2016, didn't you?---No.

And even though you had these two councillors as friends, you didn't know that it was council that determined development applications, not the Independent Hearing Assessment Panel. Is that what you're telling us? ---No. What I'm trying to say is, if - - -

30 Please, please, please. If you listen to my question. I'm saying you told us you had these two long-standing friends who are councillors and you never at any stage understood that the decision to approve or refuse a development application was made by the council?---No. Oh, yeah.

That's you say what you thought at the time, is it?---Always. I was even talking to someone last week.

But things have changed haven't they?---No, one moment. I was talking to someone last - - -

40 Things have changed since 2016 haven't they?---I've always thought IHAP has the final say.

I want to suggest to you that that's not true evidence. I want to suggest to you you know and you always knew that it had to go through the officers for their recommendation, to the IHAP - - -?---That's it.

- - - for their recommendation and then the officers' report would go with the IHAP recommendation to the council for its decision. You knew that didn't you?---No. I know that it goes - - -

No, no, no. What you knew at the time.---I'm telling you.

Well, don't start with I know.---Okay.

You should be saying I either knew or didn't know.---Didn't know.

10

What didn't you know?---What I know the application get submitted to IHAP on the recommendation of approval or disapproval and IHAP have the final say. I've always thought that.

And even though you had a long-standing friendship with these two councillors who sat on Canterbury Council they never told you anything different from that?---Maybe we never spoke about that.

That's not true either is it?---It is true.

20

Before your architect told you that your development application for 538, the first one, had been recommended for approval by the officers to the IHAP, had you had any discussions with Councillor Hawatt or Councillor Azzi about what the officers would recommend?---I don't recall but I followed things up with my architect to follow the status of every application and he said to me Spiro recommend it for approval. It's going before IHAP.

30

Did you ever have any communication with Mr Hawatt or Mr Azzi about what Spiro would recommend on the subject of your first DA?---I don't recall what Spiro did.

Well, you've been telling us that your architect told you what Spiro did so you do know what Spiro did.---I didn't say what Spiro did. I said what the, what the council told him, told the architect.

40

Mr Maroun, we'll move on. So no one told you in about 4 December, 2014 oh, your development application for six storeys on 538 Canterbury Road has been approved, you were never told that I assume?---Approved by council? The architect told me.

By anyone.---It's going, it's going to IHAP. I'm not sure of all the dates but all I was told by the architect I think that's, that's the case that Spiro recommend it for approval. It's going before IHAP on that date. I don't recall the dates.

Excuse me a moment. If we could look, please, at volume 16, page 129. What we're showing you now is minutes of the meeting of the City

Development Committee on 4 December, 2014 and it's about the property 538-546 Canterbury Road. "Item 18 resolved on a motion of Councillor Hawatt that the development application DA 255/2014 be approved subject to the following conditions." That must come to you as a very big surprise? ---Maybe.

You're not being frank with the Commission, are you?---No, you're not, I, I
- - -

10 You're not being frank with the Commission, are you, sir?---Are you expecting me to remember every phone call, every movement?

You're changing the subject, sir. I'm asking you to focus on a particular matter. Does it come to you as a big surprise that the minutes of the City Development Committee of 4 December, 2014 record that Council resolved to approve your development application for 538-546 Canterbury Road on the motion of Councillor Hawatt? That comes to you, as you sit here today, as a big surprise, does it?---I didn't say that.

20 Yes. You're not prepared to answer the question, are you?---No, it's not that.

MR GRANT: Well, I object. I object. I think that there's cross purposes going on here. As I understand the witness's evidence, what he's saying is that - - -

MR BUCHANAN: I ask that the witness not be led.

30 THE COMMISSIONER: Can you state your objection in such a way that -
- -

MR GRANT: Yes. Commissioner, if you go to page 47 - - -

THE COMMISSIONER: Of, sorry, which volume?

MR GRANT: Counsel Assisting's opening to you, Commissioner. This is where it's set out in regard to his opening about what he says took place.

40 THE COMMISSIONER: Hold on. Sorry, hold on for a sec. You're now referring to - what are you - - -

MR GRANT: Transcript page 47. 16 April, 2018. Counsel Assisting addressing you, Commissioner, in regard to how he was setting out this part of - - -

THE COMMISSIONER: Can you just hold on for a sec?

MR GRANT: Yes.

THE COMMISSIONER: And can you just refer me to the particular lines?

MR GRANT: Yes, if you go to line 10 through to line 12, 13, 14. And you can see there the process that Counsel Assisting has set out to you, Commissioner, in regard to what took place before IHAP considered the matter.

10 THE COMMISSIONER: Yes. Hold on for a sec and let me read it.

MR GRANT: Yes.

THE COMMISSIONER: Yes, I've read that down to about line 16.

MR GRANT: And it's entirely consistent with what the witness has been telling the Commission.

THE COMMISSIONER: I don't think – I'm - - -

20 MR GRANT: That he received advice from the town planner that council had recommended approval to IHAP, and that's what his evidence has been, and that's consistent with the way counsel has opened this case to you, Commissioner.

THE COMMISSIONER: I don't think what you've referred me to at page 47 is consistent with the evidence of Mr Maroun. Mr Buchanan, do you want to say anything?

30 MR BUCHANAN: In the first instance, Commissioner, this is not an admissible objection. And in the second instance, at line 4, commencing "On," even if it were an admissible objection it can be seen that this question is entirely in accordance with the opening.

THE COMMISSIONER: Yes, that's my understanding. I think where the issue is, is Mr Maroun's evidence that he always thought IHAP had the final say, and the fact that IHAP had recommended that it be approved, his understanding of that was that it had been approved and that was it.

40 MR GRANT: That it had been approved by IHAP.

THE COMMISSIONER: But his evidence this afternoon has been that IHAP had the final say, and once IHAP had approved it, that was the end of the matter. And I think that's where the issue has arisen.

MR GRANT: That's what I'm saying. I believe that the cross-examiner, I should say Counsel Assisting, and the witness are at a cross purpose here and misunderstood each other.

THE COMMISSIONER: All right. Mr Buchanan?

MR GRANT: And the only reason why I took - - -

THE COMMISSIONER: I'm sorry. Yes?

MR GRANT: Commissioner, the only reason why I took you to the transcript of the opening was that you wanted me to explain the objection without, and that's - - -

10

THE COMMISSIONER: No, no, no. That's fine. I'm grateful for that.

MR GRANT: Yes.

MR BUCHANAN: The question to which objection is taken is, it comes to you as a great surprise, does it, to be told that the minutes of the meeting of the CDC of 4 December, 2014 record a resolution that DA 255/2014 be approved and that that was moved by Councillor Hawatt? That's the question to which objection is taken. I press the question.

20

THE COMMISSIONER: I'm going to allow the question.

MR GRANT: As you please.

MR BUCHANAN: So do you understand what I'm putting to you, Mr Maroun, that there is a document that the Commission has in front of it, it's the minutes of the meeting, it's a record of the meeting of the City Development Committee, which is the same thing as council, the minutes are dated 4 December, 2014, and it records that your development application, DA 255/2014 was approved as a resolution of that committee, and that that resolution was moved Councillor Hawatt. Now, my question to you is, being told that comes to you as a big surprise, does it?---No.

30

Why doesn't it come to you as a big surprise?---Because I know the guy.

I'll split the question up. The minutes that are in front of the Commission show that there was a meeting of the City Development Committee on 4 December, 2014. Do you understand that?---Yes.

40

It shows that at that meeting the DA, your first DA for 538, DA 255/2014, was approved by the City Development Committee. Does that come to you as a big surprise?---When you say the city committee, is that IHAP?

Council. No, council.---That's the council?

Yes.---No, it doesn't come to me as a surprise.

Why doesn't it come to you as a surprise?---Because I don't know, I don't know how the system works.

But you had - - -?---All I know, sorry to cut you out.

I'm sorry, go on.---All I know, I've always led to believe if the council staff recommends the application to be approved to IHAP, IHAP have the final say. Now, that Sydney committee, whatever you called it, that's the first time I've heard of that.

10

Well, it's sometimes called council itself, because it comprises all 10 councillors.---Okay.

So it's the same as the council making the decision.---Okay.

Now, it doesn't surprise you that Councillor Hawatt moved that your DA be approved because you know the guy. That's what you told us?---Yes.

20

And does that mean that as far as you're concerned, you would hope that he would try to progress your applications before council because he was your friend?---Sorry, I didn't understand that question. Do that again?

What did you mean when you said it didn't surprise you that Councillor Hawatt moved that motion that your DA be approved because you know the guy?---Yeah, it doesn't surprise me.

30

Yes, but why doesn't it surprise you, what is it about the fact that you know the guy that explains, as far as you're concerned, why Councillor Hawatt moved that your DA be approved?---If he knows the DA is for me and he moved it, it doesn't surprise me.

And it doesn't surprise you because? Because of what?---Because he knows me.

And so you would expect that Councillor Hawatt would move that anyone else, not just you, that has a DA who's a friend of his, he would also try to get their DA approved. Is that fair?---Maybe.

40

Well, is that, was that the relationship you had with Councillor Hawatt? ---I know the guy. When you say the relationship, did I speak to him about it for him to move the motion?

Well, that's what I'm asking you.---Is that what you're saying to me?

No, I'm asking you to explain to us why it doesn't surprise you that Councillor Hawatt moved that motion, given that you knew the guy. ---It doesn't surprise you.

Yes. Why not?---Because he knows me.

Yes. And what does that mean, you would expect him to support it or move it?---I didn't talk to him about it. If he knows that application is for me and he moved it, it doesn't surprise me. If I'm getting the question right.

I'm sorry, I didn't catch the last part of your answer there, what was that?

MR GRANT: If I'm getting the question right.

10

THE COMMISSIONER: If I'm getting the question right.

MR BUCHANAN: If you're getting the question right, yes. So, you would expect, would you – I withdraw that. If something is not a surprise to you then it's something that you would expect would happen, you'd understand that?---Sorry, repeat it again?

20

Yes. If it doesn't come to you as a surprise, then it's something that you would expect would happen, is that fair? In the world, in life generally about anything.---Yeah.

Is that fair to say? And so, because you knew the guy you would expect him to move that your DA be approved at council, is that fair to say?---I wouldn't say that, no.

Why not?---Because I didn't ask him for it.

30

That's not what you said. What you said was it didn't surprise you because you knew the guy not because you asked him to. It's simply because you knew the guy.---What I'm trying to say, whether he does or he doesn't, what can I say? What, what can I do?

Are you feigning ignorance of the question? Are you trying to pretend you don't understand, Mr Maroun?---Sorry, what was the first words?

Are you pretending you don't understand?---I'm not pretending. If I can ask you, Commissioner, to maybe give me the question your way?

40

THE COMMISSIONER: Well, I think Mr Buchanan just said to you – you answered, when it was put to you as reflected in the minutes, it was Mr Hawatt who moved the resolution by council approving your DA. You said something like, "I wasn't surprised by that because I knew the guy." And what Mr Buchanan's been asking you is that was your answer, "Because I knew the guy," what did you mean by that?---I've been saying all along I've known Mr Hawatt for about 20 years.

And he was a good friend of yours?---Yes.

So, is your expectation because he was a good friend of yours, he would move the recommendation in support of your DA?---No. But if he does move the motion, it doesn't surprise me.

MR BUCHANAN: Because you know the guy?---Yes.

What is it about your knowledge of Mr Hawatt that makes you say that?
---What do you mean by knowledge?

10 Well, you say, "Because I know the guy," that means you have knowledge of the guy. What is it about your knowledge of the guy that makes you say you wouldn't be surprised that he moved the motion?---He's a good friend of mine.

Excuse me a moment. Now, were you told that the IHAP had imposed some conditions in their recommendation that your DA be approved.---I don't recall.

20 Excuse me a moment. See, oh sorry, you don't see. Page 129, I'll read it out to you. We're actually looking at the same page, that's just simply the way these pages are written. We're looking at the page now, volume 16, page 129 and if we go back to page 128, we can see that what appears there is that part of the IHAP report, which is being provided to the City Development Committee for its information, you see, which has the conditions in it and one of the conditions was, going back to page 129, condition 5.10 to add a condition, 5.10, "A full height slot to the northern façade be provided to allow natural light to the lift lobbies at each level." Do you recall being informed that the IHAP, in its recommendation that the
30 DA be approved, were asking for some additional conditions to be imposed on the development consent, one of them being that a full-height slot to the northern façade be provided to allow natural light to the lift lobbies at each level?---I remember that very well, yes.

Who told you about that condition? All the conditions, for that matter.
---The architect.

And did you have an opinion about that condition?---I left it to the architect.

40 I'm sorry?---I left it for the architect.

But didn't you – I withdraw that. Did you understand what that would involve?---No.

A full-height slot?---No.

No-one told you what that might involve architecturally or in terms of expense?---I don't remember.

So are you able to assist us, then – excuse me for a moment. If we could go to page 145, volume 16. What we’re looking at here is an email from a manager at council called Brad McPherson on 5 December – that’s the next day after the CDC meeting – to Councillor Hawatt, and it reads, “Hello, Councillor Hawatt. At the council meeting last night you moved an amendment that was endorsed by the City Development Committee to delete recommendation 5.10 (not transcribable) 18 of the City Development Committee (538-546 Canterbury Road, Campsie). Condition 5.10 states,
10 ‘A full-height slot to the northern façade be provided to allow natural light to the lift lobbies at each level.’” Now, I’ll just stop reading there. So it would seem that Councillor Hawatt had moved that that condition be deleted from the recommended conditions – recommended, that is, by the IHAP. Do you understand?---Yes.

Do you know why Councillor Hawatt moved for the deletion of that condition?---No idea.

Did you hear that he had moved that amendment?---I think I, I, I think I was there at that meeting.

20

So did you see him moving the amendment and the other councillors agreeing to it?---Yes.

Did it come to you as a surprise that he was moving that amendment?---I can’t answer this.

Why can’t you answer it?---Because I don’t know what you’re talking about, surprise.

30 Well, how did you feel when you discovered that that’s what Councillor Hawatt was doing?---I felt good.

Why did you feel good?---Because it’s approved.

No, no, I apologise. I’ll go through it again. You were there, were you, when Councillor Hawatt moved that recommendation 5.10 be deleted from the conditions for the consent which the IHAP had recommended, namely that the full-height slot be provided to allow natural light into the lift lobbies? You were there when Councillor Hawatt did that, is that what you
40 tell us?---I think so, yes.

And did it come as a surprise to you that he was moving that?---No.

Do you know why he moved that?---No.

Well, did you ask him, “Why are you interfering in the design of my development?”---Interfere in what way?

Well, there's a recommendation that's been made by the IHAP for an aspect of the design of your development and he's trying to get rid of it? How did you feel about that?---Is that to my advantage or disadvantage?

Mr Maroun - - -?---No, I swear to you, I don't know what you're talking about.

10 But you were there.---That north height, whatever it, I don't know what it, I was there. But when you hear so many objection at council and motion moves, motion wins, motion won, half the time, personally, I wouldn't know what they're talking about.

But this is about the design of your development?---Yes.

And I want to suggest to you it has an impact on the cost to you of going ahead with your development.---First time I've heard of it.

20 THE COMMISSIONER: Who else was at the meeting with you, were you there by yourself?---Can't remember.

All right. But you knew at this meeting that council resolved to approve your DA?---Yes.

And you were there and you saw that happen?---Yes.

And you must have been very pleased about that?---Yes.

30 That seems inconsistent with the evidence you've given before that IHAP had the final say and IHAP approved it because you're now at a council meeting.---Yeah, it was the IHAP meeting.

No, it wasn't. You agreed with Mr Buchanan that it was a council meeting because Councillor Hawatt is there.---But after that doesn't it go to IHAP?

No. You knew that.---So that was after it came back from IHAP?

Mmm.---Okay. Now I'm with you.

40 MR BUCHANAN: So the evidence that you've been giving us about not understanding that it was council that made the final decision is false to your knowledge wasn't it?---Now it is, yes.

No, it was when you spoke it false to your knowledge wasn't it?---To my knowledge, yes.

Because you were present at the meeting where your DA was approved by the council weren't you?---Yes.

I want to put this to you. This is what Councillor Hawatt told the manager, Mr McPherson, on 7 December in an email. This is at volume 16, page 145. "The condition of IHAP will only cause the applicant unnecessary expense and waste of time as this requires an amend to redesign the building." Now, that's not everything he said but I'm just focusing on that particular sentence. Can you assist us, what's your understanding as to why Councillor Hawatt would have said that to explain why he moved that that condition for a full height slot to be provided to illuminate the lift lobbies be deleted?---I've got no idea.

10

Where did he get the idea from that if you had to install a full height slot to allow natural light to the lift lobbies it would cause you expense and waste of time and require an amendment to the design of the building?

MR GRANT: Well, I object. How can this witness answer this question in regard to how Councillor Hawatt his mind got that information.

MR BUCHANAN: I'll reframe the question, Commissioner. Do you know where Councillor Hawatt got the idea from that if you had to provide a full height slot to provide natural lighting to the lift lobbies it would cause you unnecessary expense and waste of time and require an amendment to the design of the building?---I've got no idea what that mean. Absolutely no idea.

That's a very difficult thing to understand, Mr Maroun. We're talking about your personal and financial interests here and you're trying to tell us that all these other people were bandying around with things that affected your financial and personal interests and you simply didn't understand them? ---Trust me. No. If you spoke to me, if you ask me this question a month or two after the incident I may say to you someone was there with me, maybe the architect or someone but I don't know what this height business. I'm not a builder or an architect.

30

All right. Thinking of that occasion. You were there at the CDC meeting 4 December, 2014. You've got there with you probably your architect have you?---Maybe. I'm not too sure.

Well, are you there all by yourself?---Maybe.

40 What's the point of you going if you don't understand what's going on? ---To see if it's been approved or not.

So you went there to a council meeting in order see whether council approved it or not?---Yes. That's, that's, that's more than likely why I'd go there.

Was there a conversation whilst you were there that involved Councillor Hawatt as to whether a condition of the consent as recommended by the IHAP should be removed?---With me?

Involving you or which you heard or saw?---No.

And so there's nothing that you can give us that would explain why Councillor Hawatt would, and I'm using the words advisedly, meddle in the design of your building?---No idea.

10

It doesn't make sense, does it, Mr Maroun, that Mr Hawatt would meddle in the design of your building?---Maybe because he knows me.

Yes.---And he knows that, like you said, it costs money to change and he feels no need for that, maybe.

20

But don't you think it would have been at least polite of him to ask the owner, look, this is what I think we need to do to make sure that you don't have too much expense in building your building, how about we delete this condition? Don't you think it would have been polite of him to run that past you?---Maybe he, maybe he spoke to me about that, 'cause I don't know what this condition means and I don't think he knows either the cost of it.

You know what a slot is, don't you?---No.

Ever heard of a slot machine?---(No Audible Reply)

What do you put the coins in?---Yes.

30

That's a slot.---Yes.

Yes. Full height means full height of the building.---Yes.

So a slot in the full height of the building in order to allow natural light into the lift lobby. You know what a lift lobby is?---Yes.

So you understand exactly what that condition meant - - -?---No.

40

- - - didn't you?---No. What does the condition say, slot?

Now, can I ask you this. I'm just looking at another part of that response by Councillor Hawatt in his email of 7 December, 2014 to Mr McPherson. He said, "Applicants spend approximately six and sometimes 12 month putting together a DA that satisfies council." Now, just focussing on that sentence, do you know where he got that information from?---No.

And I appreciate he's speaking about - - -?---Is, is, is he - - -

I'm sorry?--- - - - referring to me?

I do apologise. I spoke over you. What did you say?---Is, is he referring to me?

Well, no, I was just going to point out to you, he says, "Applicants."---Yeah.

So he might be referring to you, he might not be, but he's probably referring to people in your position.---Okay.

10

How long did you spend putting together a DA that satisfied council on 4 December, 2014?---I don't remember.

Between six and 12 months?---You would not, you would not get anything within six months. Probably nine months to more than a year, at any council, not only Canterbury.

20

And given that your business was that of a developer and given that you were spending so much time talking to and meeting with Councillor Hawatt and Councillor Azzi, do you think that the trials and tribulations, the problems in life of a developer, are the sort of thing that you might have talked about from time to time with those two gentlemen?---I didn't understand the question.

When you spoke with Councillor Azzi and Councillor Hawatt generally speaking - - -?---Yeah, generally speaking.

- - - do you think you sometimes talked about your job?---Yes.

30

Do you think you sometimes talked about your problems at your job?---Yes.

And do you think you would have spoken to them sometimes about your problems as a developer?---Yes.

Things like how much time and money you have to spend putting applications together?---Well, we talk, we talk about general, not like specific council, 'cause all council are very much the same.

40

Yes. But you would have spoken to them about how much time and effort you had involved in putting together for example the DA that was before council in the second half of 2014, before Canterbury Council?---Maybe, yeah.

Well, it's likely, isn't it?---Yeah.

And were Councillors Azzi and Hawatt sympathetic to your position? ---What do you mean sympathetic?

Did say, "Oh, well that's your fault. You shouldn't have gone into the development business," or did they say, "Oh, that's a terrible thing"?
---Generally speaking, we try to improve things. Yeah. Sometimes they advise what I should do to speed up the process. Yeah.

And what are the sorts of things, can you give us an illustration or two, of the sort of things they advised you to do to speed up the process?---Go within, go within the compliance. Make sure you meet all objections. That the shadow diagram works, setbacks and stuff - - - - -

10

Shadow diagrams?---Yeah. And stuff like that. Not to listen to the town planner say what, what he did for that job was going to vary the heights.

And which town planner are you talking about? Your town planner?---Yes.

And are you thinking of a particular conversation in that regard? I just want to tease out of you, if I can, the whole of that conversation.---I asked what's the best way like, speed up getting the approval. I just told you, to comply with everything. Yeah. They told me what the compliance is. Not to try to add or vary any like this 4.6 situation.

20

So, I just want to ask you, thinking of June 2014, when you lodged the first development application for 538 Canterbury Road, had Mr Hawatt or Mr Azzi given you that advice before you lodged that development application or was it afterwards or was it both before and after?---I didn't speak to them about it when I lodged.

Well, when was it that they gave you this advice about trying to comply for example, and the other - - -?---I'm not, I'm not talking about specific on, about 538. I'm talking about general things and they said, "This is what you should do. I didn't say specifically for 538. Like we discuss what they know, what I know, about what they do, what I do.

30

And was that a discussion that you had with them before you lodged the first DA for 538 Canterbury Road?---I don't recall when I did.

When was it that you first heard them give this advice? And if you can't recall a date, in relation to whatever you were doing at the time.---Maybe after we went through what got, what got rejected from council, when I asked for the seven levels.

40

When you say, "Maybe," do you mean that's your best recollection, that it was after you were told, "Seven levels is too much"? And I'm just reconstructing and I'm inviting you to say whether this is right or not. You had a conversation with Councillors Azzi and Hawatt. They said, "Well, look, it's not complying if it's seven levels. You need to pull it back in a bit."---No, that wasn't the case. That was never, ever the case. You asked me a question what I discussed with them. I discussed to pick their brain,

they discuss to pick my brain about what they know, what I know. Not about a specific job. You're referring back to 538.

But I'm just trying to find out when you first got this general advice about it's better to comply with the development controls.---I've got no idea when.

And you don't know whether it was before or after, for example, you lodged the first DA for 538?---No.

10 THE COMMISSIONER: You said it was general advice, but the last dot point you said was something along the lines of not listening to the town planner when he said what he did to vary the height. And then Mr Buchanan said, "The town planner that was your town planner?" And you said, "Yes." That seems to be referring to something quite specific where your town planner gave you advice or took a particular route to try and get an increase in height. Wouldn't that refer to 538?---Yes.

20 So 538 you did, they did talk to you about not listening to your town planner?---What happened on, about 538 with the town planner did was wrong.

And Mr Hawatt and Mr Azzi told you that?---Yes.

MR BUCHANAN: Can I take you to another SMS message, please, volume 17, page 301, items 16 and 17. I'll read out to you what it says, sir. Item 16 is a text message that you sent to Mr Hawatt's telephone and you sent it on 19 December, I'm sorry, yes, 19 December, 2014. So it's after that CDC meeting that we were looking at earlier.---Yeah.

30 And it's at 6.01pm. And the message that you sent reads, "Can I see you at gym with Starsky?" S-t-a-r-s-k-y. "At 7.00. Thank you." And then the reply is at 6.03pm from Mr Hawatt, Answer, "Sorry, between 7.30pm to 8.00pm." So he's changing the time a little bit. That particular exchange there was one that you indicated you wanted to see Mr Hawatt with Mr Azzi.---Correct.

And Starsky is simply a joke name that you used for - - -?---It's a nickname.

40 A nickname, thank you, for - - -?---His, his name's Starsky, the other guy name Hutch and they call him Kojak.

Rightio. So Starsky was Mr Azzi?---Yes.

Right. Why was it on that occasion that you wanted to see them both at gym?---I don't recall.

I mean were there occasions when you wanted to see them?---No.

Well, accept that on this occasion it seems that you did want to see them.
---Why?

Well, that's what I'm asking you, sir.---No.

You see your questioning in the text is, "Can I see at gym with Starsky at 7.00? Thank you."---Can I see you and Starsky?

10 Yes, yes.---Then for both of them.

Yes.---Yeah.

Why would you have sent that if you didn't want to see them and talk to them?---I thought the message, "Can I see you and Starsky?"

Yes.---Is that right?

THE COMMISSIONER: At gym.---At gym.

20 MR BUCHANAN: "At gym at 7.00."---Yeah.

Why was it that you wanted to see them, if you didn't in fact want to see them?---Why wasn't, sorry, why wasn't what?

30 Well, you said a moment ago that you didn't as a general practice, if I recall your evidence correctly, want to see these guys, other than that they were your friends, but here you're making a specific request, can we meet, basically, at a particular time, a particular place, and you nominate who you want to see. And my question is, why are you doing that to these two councillors at Canterbury Council?---We used to get together and train together and eat and drink together. I, I, I don't recall saying I don't want to see them.

But you have to accept it from us, if you can't read it on the screen, that that is exactly what you said, "Can I see at gym with Starsky at 7.00. Thank you."---Yeah.

40 So that's what you said. And the question is, why were you wanting to see these two guys?---I don't remember back two years ago.

Yes, but - - ?---But either to have a drink with them or to train with them or to get together.

Well, is it possible that you in fact regularly wanted to have meetings with one or other or both of these two councillors in late 2014-2015, early 2016?
---What was the question again?

Is it possible that in late 2014 - - ?---Yeah.

- - - through to early 2016 you regularly wanted to see Mr Hawatt or Mr Azzi or both?---Yes.

It is possible?---Yes.

Right. What is it about the relationship you had with them that explains why you wanted to see them regularly?---As I said, to train, to drink, to eat, to go out.

10

And not to discuss any aspect of your business?---Sometimes I do, yes.

When you wanted to discuss an aspect of your business with either or both of them, what sort of aspect of your business did you want to discuss? ---Like what I did with 538, if I can speak to Spiro Stavis, you know, arrange for a meeting, if the RMS issue on the other site, if it's been sorted, how long will it take and stuff like that.

20

Well, can I just ask you this. The stage you were at with 538 at this point of time was that you had your development consent but it was for six storeys which wasn't - - -?---For how many storeys?

- - - what you originally wanted.---For how many storeys?

I'm sorry?---What did you say, how many storeys?

Six storeys.---Yeah.

30

You had originally wanted more than that.---Yes.

And you later lodged an application for two extra storeys, didn't you? ---Yes.

Is that what you wanted to discuss with them, a strategy for getting approval for a development application you had yet to lodge for two additional storeys at 538 Canterbury Road?---Maybe.

I note the time, Commissioner.

40

THE COMMISSIONER: Mr Maroun, we're adjourning for today. Your evidence will resume tomorrow morning at 9.30.---Okay.

So we stand adjourned until tomorrow morning at 9.30.

THE WITNESS STOOD DOWN

[4.33pm]

AT 4.33PM THE MATTER WAS ADJOURNED ACCORDINGLY
[4.33pm]