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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 THURSDAY 19 JULY, 2018

AT 9.30AM

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

MR BUCHANAN: I don't know there's any administration at this stage, Commissioner.

THE COMMISSIONER: All right. Mr Maroun.

THE COMMISSIONER: Please have a seat. Mr Buchanan.

MR BUCHANAN: Commissioner. Mr Maroun, if I can just take you back to where we were when we finished yesterday. I was showing you a table of messages extracted from Mr Hawatt's telephone and I was taking you to a couple of messages at 6.01 and 6.03pm on 19 December, 2014 and this is recorded in Exhibit 69, volume 17, page 301, items 16 and 17, and if we can just go back to 16 and 17 and I'll just read them out to you again. The message at 6.01 is from you to Mr Hawatt, "Can I see at gym with Starsky at 7.00. Thank you." And at 6.03, Mr Hawatt replied, "Between 7.30pm to 8.00pm." So, you recall I asked you questions yesterday about whether it was the case that you were asking to see them and, if so, what it was about. Do you recall that I was asking you that yesterday?---Yes.

Can I turn to some subsequent messages, number 18 on the same page. This is the next day, 20 December, 2014 and it's a message from you at 2.08pm and the message reads, "If you near gym or when?"---If you near gym or?

"If you near gym or when?" Those are the words in the message, which seems to be, would you agree a request for Mr Hawatt to visit you at the gym and asking you to nominate a time, would you agree with that?---For, for me to remember that far back, that, that far back as to why I messaged them, we used to get together very often. I don't recall the reason behind that.

Well, there had been communications between the two of you the previous day where you had asked him to see you at the gym with Mr Azzi, how often did Mr Azzi come with Mr Hawatt to see you at the gym?---Just about every time I called either Michael or Pierre I asked for both of them to come, so - - -

And Mr Hawatt would use the facilities for training from time to time? ---Yes.

Each time Mr Azzi came, did he also use the facilities for training?---Yes.

Are you quite sure about that?---Yes.

THE COMMISSIONER: And what facilities did you have there?---I had treadmill, bike, weightlifting bench, exercise bench, so we used to train, we used to train together.

Okay.

MR BUCHANAN: Any weights?---Yes.

Free weights?---Yes.

Did you have any bars?---Yes.

Did you have any multi-gym machine?---Yes.

Did Mr Azzi use the weights?---Mainly the free bars, yeah.

10 He used the free bars, did he?---Yeah.

Did he use the multi-gym?---Not, not many people can use that. I can't even use it.

Now, I've told you about a message that you sent at 2.08pm on 20 December, 2014, which read, "If you near gym or when." The message after that, number 19 on page 301, is to you from Mr Hawatt at 3.39pm, and it reads, "I will be around Earlwood in the late afternoon." So that's Mr Hawatt's reply to your message.---Yes.

20

Did Mr Hawatt come over that afternoon?---I don't remember.

Excuse me a moment. On page 302 of volume 17, item 29 is an SMS extracted from Mr Hawatt's telephone which was received from you on 11 January, 2015 at 12.55pm. So we're in 2015 now, middle of January. And it reads, "Hello, Michael. I be at gym at 3.00 for one hour." That sounds as if you're asking him to come over, doesn't it?---Maybe again, yes.

30 Why did you want him to come over to see you at the gym?---I don't recall why but as I said, we always get together, whether to train or to hang around or go out.

Or to discuss your business affairs?---Maybe.

The same day at 4.42pm, Mr Hawatt replied, "Are you available within 30 minutes?" And at 4.47pm you replied, "Going away to a wedding in 20 minutes." And Mr Hawatt replied, 4.51pm, "Okay, tomorrow." Was there anyone who could let Mr Hawatt into your gym if you weren't there? ---The gym is, is open from the side.

40

Yes.---It's not inside the house, it's on the side.

Right. I'm just trying to ascertain could Mr Hawatt get into your gym and use its facilities if you weren't there in early 2015?---I don't recall he did that at any stage but he can if he wants to.

No, I'm not suggesting necessarily that he did. I'm asking, sorry, a separate question. Aside from any particular visit was it physically possible for Mr Hawatt to get into your gym and use it if you weren't there?---Yes.

10 These messages that are being exchanged would seem to indicate that although Mr Hawatt as you've indicated could get into your gym if you weren't there you wanted to meet him at the gym which suggests possibly that you wanted to speak with him about something. Do you understand what I'm suggesting to you?---As I said, for me to remember there or four years ago what the SMS was all about or why I called him it's impossible.

Yes, but it's - - -?---Because we, we used to call each other often.

Meaning, what do you mean by that, sir?---Get together, get together for going out, training, whatever the case may be.

20 Can I take you on the same page to message number 38 from you on 28 January, 2015 at 10.11am. The message reads, "Hello, Michael. Let me know when at gym, please." That sounds as if you wanted to speak with him doesn't it?---Yeah, train or speak with him or as I said, to get together for whatever reason, whether to train or to go out for lunch or go out.

30 The same page, item 40 is a message from you on 11 March, 2015 at 7.28pm Reads, "Hi, Michael. At gym if you are free." I'm sorry, could I just check that I've got that. No, correction. I've misread that. I withdraw that. It's a message to you from Mr Hawatt, this is item 40, on 3 March, 2015 at 4.23pm. We're talking early March, 2015 and the message that Mr Hargreaves sent you was, "Hi, Jimmy. Montague will call you re your DA." Do you remember receiving a message from Mr Hawatt indicating that Mr Montague was going to call you about your DA?---I remember speaking about it but I don't remember reading the message, no.

When you say speaking - - -

THE COMMISSIONER: Sorry, speaking - - -

MR BUCHANAN: Sorry, Commissioner.

40 THE COMMISSIONER: Speaking about it with whom?---With Michael.

MR BUCHANAN: And what was the conversation you had with Michael about Mr Montague calling you about your DA?---To find out where we're at with it or what can we do with it.

So were you concerned that it was taking too long to process your DA or - - -?---No. There's times where you try to get something done at council and you keep going around in a circle. So the next step you take you either

go to the general manager or the director of town planning and I don't recall what's the purpose of that meeting with Montague.

10 Just excuse me a moment. On this date on 3 March, 2015, when Mr Hawatt told you by text message, "Montague will call you re your DA," you didn't actually have a DA before council because your first DA had been approved and your second DA was not lodged until June of 2015, 9 June. So, do you know why Mr Hawatt would have thought that Mr Montague was going to speak with you about a DA that wasn't before council?---Are we talking 2014 now?

No, is 2015, sir.---2015.

20 So, the message is in March, 2015.---Yes, yes, yes. Because I had two DAs there. One was for 538 and one was for 457. I was chasing mainly Jim about RMS and I was chasing Stavis, Stavis about 538. So, that must have been for 457, for the RMS issues because what happened was, I had this block sold subject to getting the DA on it and I was told the RMS would be, would be sorted in six months, three months and then six weeks and until now it hasn't been sorted. So I was chasing that up.

We spoke about the DA for 457 Canterbury Road yesterday. You told us about the RMS issues and you agreed that it was withdrawn from council in January, 2015.---To resubmit because I can't resubmit before the RMS issues is sorted.

Did you resubmit it?---No.

30 You never did?---I couldn't resubmit it because there is no RMS being sorted, so resolution for RMS 'til this day.

40 Had you – I withdraw that. Originally your DA for 538 Canterbury Road was for seven storeys. You then reduced it to six storeys after council said to you it was too big and there wasn't sufficient justification for it being so big. Had you spoken at all with Mr Hawatt or Mr Azzi about whether you could get your extra storey or storeys by some particular means?---Yes, I did. I spoke to my, to my town planner and he told me what I could get. He, he goes, "Speak to council about it to vary the 4.6," like I said yesterday but the terminology behind 4.6, what it means, I've got no idea. Yes, I did speak to them.

And did Mr Hawatt or Mr Azzi indicate that it might be an idea to speak with Mr Montague about how you could add extra storeys to the approved development at 538?---Mr Azzi took me to – I asked for a meeting with the director of town planning, which is Spiro Stavis.

You've told us about this probably about four times. What I'm asking you is about did either of them say to you that it might be an idea to speak to Mr Montague?---I don't recall.

Did you ask to speak to Mr Montague about how you could add extra storeys to your approved development?---Again, I don't recall.

10 Did you have some sort of pre-DA meeting with Mr Montague about the DA that you lodged on 9 June, 2015 to add two storeys to the approved six storeys on 538 Canterbury Road?---I don't remember. I don't think so.

Can I show you this table, please.---Thank you.

20 This is a table of call charge records for contact between you and Mr Montague. There's only four items on it. It reads the same way as the table I previously showed you of call charge records for contact between you and Mr Hawatt. It's on the screen, but it shows that under Phone User 1 and Phone Service 1 the details of the person making the call, under Phone User 2 and Phone Service 2, the details of the person receiving the call, this is reading from left to right, under Start Date it shows the date on which the call started and it also shows a start time and the duration of the call, and there's some explanatory data about it. Commissioner, I tender the call charge record table, including the explanatory data which has been provided underneath the table itself.

THE COMMISSIONER: The call charge records for contact between Jimmy Maroun and Jim Montague, including the explanatory material will be Exhibit 148.

30

**#EXH-148 – CALL CHARGE RECORDS FOR CONTACT BETWEEN JIMMY MAROUN AND JIM MONTAGUE INCLUDING THE EXPLANATORY MATERIAL**

40 MR BUCHANAN: And I should add, Commissioner, that this is a table prepared from raw data that has been provided to the Commission by service providers, if a party wishes to look at the raw data underneath could they please make arrangements with the solicitor instructing the Commission, solicitor instructing me.

Sir, what this call charge record shows for 4 March, 2015, is that at 3.58pm, Mr Montague's mobile phone made a call to your mobile phone and that call lasted 1 minute and 24 seconds. Thinking now of the fact that there is a record that on 3 March, 2015, the preceding day, Mr Hawatt messaged you to say that, "Montague will call you re your DA," and then knowing that there's a record that Mr Montague did indeed call you the next day, can you now recall the contact you had with Mr Montague on this occasion?"---No.

How often did Mr Hawatt or Mr Azzi tell you that Mr Montague would be making contact with you?---Not very often.

But you don't recall this particular occasion?---No.

10 Whilst we've got the call charge record Exhibit 148 in front of us, can I take you to the next entry, which is still in March 2015, for 13 March. It's item number 3 and it shows that Mr Montague's phone called your phone on 13 March, commencing at 2.56pm, and that the line was open for 1 minute and 31 seconds. Do you recall having a couple of contacts on the telephone with Mr Montague in March 2015?---I remember speaking to Mr Montague but I don't remember dates or whether it's on the mobile or the landline.

And what did you – when you spoke to Mr Montague on the phone, what did you speak with Mr Montague about?---It's mainly about the RMS issue.

There was no conversation about 538 Canterbury Road?---I don't recall.

20 Are you saying there could have been conversation about it but you just can't recall it or - - -?---Maybe.

Are you saying - - -?---Maybe.

30 On 16 March, if we could go to volume 16 of Exhibit 69, page 156, please. There was an email sent to Mr Montague by one of Mr Montague's personal staff at 4.19pm and the email had a subject heading of, "Meeting Jimmy Montague," I do apologise, "Jimmy Maroun," and the body of the message contained nothing except your mobile telephone number. Do you remember whether the day after Mr Montague had rung you, which in itself was the day after Mr Hawatt had said Mr Montague would ring you, there was an arrangement for you to have a meeting with Mr Montague?---I did call Mr Montague a few times and left him messages to call me but I don't remember the dates, no.

And did you call him with a view to arranging a meeting?---Yes.

40 How many times did you do that?---A few times. Probably three or four times.

And when you called him to arrange a meeting, what was it that you wanted to meet with him about?---Mainly about 457 Canterbury Road, about the RMS issue.

Did you ever arrange a meeting with Mr Montague with a view to talking about 538 Canterbury Road at all?---I don't recall that.

Why was it that you needed to have a meeting with Mr Montague about 457 Canterbury Road, given that you had previously spoken with him on the phone about it?---As I said, he keep, he keep on saying it'd be sorted soon, shortly and I'm following up when it would be sorted, is there anything I can do to speed up the process, whatever.

10 But why couldn't you sort that out on the phone with him? Why did you need to have a meeting?---I like to meet with people rather than talk to them over the phone. Looks more, it plays a better situation than speak to someone over the phone.

Can I take you to another record. It's the next page I think, 157 in volume 16 of Exhibit 69, and it's another message that has been sent to Mr Montague about a meeting with you. It's got your mobile telephone number in the body of the message but this time there are two differences. Firstly, it's dated 17 March, the next day, 17 March, 2015 and this one has been sent not only to Mr Montague but also to Mr Stavis. Do you recall having or trying to arrange a meeting with Mr Montague and Mr Stavis?  
---Together?

20 Yes.---I don't recall, no.

Did you ever have a meeting with Mr Montague and Mr Stavis together?  
---Don't recall, no.

Did you ever try to arrange a pre-DA meeting for your second DA for 538 Canterbury Road?---With who?

30 Anyone.---With Spiro Stavis, yes.

You did - - -?---Yes.

- - - try to arrange a pre-DA meeting with Spiro Stavis?---For the extra two floors, yes.

Right. And did you see him - - -?---Yes.

- - - before you lodged the DA - - -?---Yes.

40 - - - for the extra two floors?---Yes.

And was Mr Montague there?---No.

Was Mr Azzi there?---Yes.

And was this the meeting that you've told us about that Mr Azzi arranged?  
---Yes.

Can I just ask you though, I want to just make sure that there's no confusion in your evidence or in your mind about your evidence, the meeting that you told us about having with Mr Stavis and Mr Azzi on one view was a meeting after you had lodged the DA and when Mr Stavis was basically going over your plans and saying, look, to get approval you're going to need to do this, this, this and this. And you had your architect there and as far as you were concerned, the changes Mr Stavis asked for were made?---Yes.

10 Right. So there's that meeting. You can recall that, can you?---Yeah, I can recall the meeting between myself, Spiro Stavis and Pierre Azzi.

And your architect there?---I think my architect came in, Spiro Stavis had, has gone on leave and the architect came in and saw a team leader, I forgot his name now.

THE COMMISSIONER: But was your architect at the meeting?---With Spiro Stavis?

20 Yes, and you and Mr Azzi.---I don't recall that. I'm not 100 per cent. But I remember once he met with a team leader after we met with Spiro Stavis, or he was at the meeting with Spiro Stavis, I don't recall 100 per cent.

MR BUCHANAN: And just to cover this off, were you present at that meeting between council's team leader and your architect?---Yes.

And was that about 538 Canterbury Road?---Yes.

30 And was it after you had lodged the DA to add two storeys to 538 Canterbury Road?---That's when Spiro Stavis wrote some notes for his team leader to explain to the architect what needs to be done.

I thought you said that Spiro Stavis had gone on leave?---Yeah, before he gone on leave.

Oh, before he went on leave?---Yes.

40 Right. I misunderstood, sorry. Thank you. So Mr Stavis was there, his team leader was there, you were there, your architect was there, Mr Stavis indicated things that needed to be changed.

THE COMMISSIONER: No, I don't think Mr Stavis - - -

MR BUCHANAN: Oh, I've misunderstood, have I?

THE COMMISSIONER: I think there's a second meeting when Mr Stavis had gone on leave.---Yes.

But before he went on leave he wrote notes to the team leader to explain what had to be done.

MR BUCHANAN: Thank you. And did Mr Stavis make those notes in front of you or did you simply see some notes that the team leader had that you understood Mr Stavis had left for the team leader?---No, he, he, he did them in front of me.

When did he do them?---Where?

10

When?---At the - - -

In relation to the meeting with the team leader.---He did the notes at the meeting that I had with him. He was trying to explain to me. I go, I'll have – now, now it came to me, my architect wasn't there with Spiro Stavis.

THE COMMISSIONER: And this was the meeting with Mr Azzi as well? ---Yes. The architect wasn't there, so he was telling me what to do. I said, "If you can, mark them on, on the plans what needs to be done and write for  
20 whoever going to look after this file to talk to my architect and I will arrange a meeting between the architect and the team leader." So he did that, then he went on leave, then I met with the architect and the team leader. His name is very familiar.

MR BUCHANAN: Don't worry.---Yeah.

It's okay. Can you remember the season of the year when this happened? ---No. No.

30 Was it in about summer of 2015/16?---I don't remember the season or the date or the month.

But you do remember that it was about 538 Canterbury Road?---Yes, definitely.

Now, can I just go back to the subject of whether there was a pre-DA meeting that you took part in in relation to your contemplated, what you were thinking about lodging, a second DA to add two storeys to the approved development at 538 Canterbury Road, did you have a pre-DA  
40 meeting with council about that?---The DA's already there. There was a section 96 for those extra two levels. I was led to believe anyway.

The section 96 wasn't for the extra two levels was it, it was a separate DA lodged on 9 June, 2015 accompanied by a section 96 to modify the approved development wasn't it?---Maybe, yeah.

Well, that's likely to be the case isn't it?---Okay.

And I'm still trying to ascertain from you whether you took part in a pre-DA meeting before 9 June, 2015 with anyone at council about the second DA you intended to lodge to add two storeys to the approved development?---I don't recall but I'm pretty sure the architect should have. Me personally I don't recall.

10 Can I take you to volume 16, page 158. This is in the first instance looking in the middle of the page an email that Mr Hawatt sent to Mr Stavis on 19 March, 2015 at 4.09pm and the message reads, "Hi, Spiro. Can you let me know progress for the above addresses and whether a lodgement for 445 can be made with council. Regards, Councillor Michael Hawatt." And the addresses in the email conversation are 538-546 Canterbury Road, Campsie, section 96, and 445 Canterbury Road, Campsie, RMS issue. So I'm just telling you what's there in that email on 19 March. Can I take you to page 159. At the top of the page in the same email conversation a Mr Gouvatsos, does that name ring a bell?---Yes.

20 It's possibly the name of the team leader.---George Gouvatsos. No, that wasn't the person.

A different person was it who was the team leader you were talking about earlier?---No, that wasn't him. I know George. There's another one.

30 Rightio. This is an email on 20 March the next day at 1.38pm to Spiro Stavis which has in it the email from Mr Hawatt to Mr Stavis and George Gouvatsos says to Spiro Stavis, "Spiro, 538-546 Canterbury Road, Campsie is the subject of a submission to the RDS to increase the height limit from 18 metres to 25 metres. I understand that this planning proposal is still under consideration and will be reported to council shortly. The applicant needs to wait for such a decision. Once a decision has been made we need to wait for the LEP to be imminent and certain before we can take it into account." And then he says about 548 Canterbury Road – I'm sorry, thank you, 445 Canterbury Road, "Was a DA for a mixed use involving shop top housing, which is not permissible in the current B6 zoning which the JRPP considered and asked for it to be withdrawn and wait for the LEP to be imminent and certain. The applicant subsequently withdrew the DA." Did Mr Hawatt convey to you the information that's in that email about 538 Canterbury Road, that it's the subject of a submission to the Residential Development Strategy?---I don't recall.

40 Did you have a conversation with Mr Hawatt in which he indicated that he had found out that the site 538 Canterbury Road was the subject of a proposal to increase the height limit from 18 metres to 25 metres?---Yeah, that's what I just heard about what's in that email.

You mean to say just now or at the time?---Just now, just now.

And Mr Gouvatsos went on to say, “The applicant needs to wait for such a decision. Once the decision had been made, we need to wait for the LEP to be imminent and certain before we can take it into account.” That’s advice saying, “Don’t lodge a DA for an increase in the height limit until the LEP has been amended to allow for development applications to be approved where the building height is 25 metres.” Did you have conveyed to you any advice like that?---No. I don't recall.

10 You understand what that advice would – I withdraw that. You can understand why that advice might be given by council, can’t you? That there’s no point in lodging a DA for an increased height limit if the building control doesn’t allow it for the increased height limit. Best thing to do, given that an increase to the height limit is the subject of a planning proposal to the department, wait for that to go through the process to see whether an amendment is made.---Logically speaking, you’re right, yes.

And you understood that at the time, is that right?---No.

20 You didn’t understand that at the time?---No, I wasn’t told.

But couldn’t you work it out for yourself?---No, because I had a town planner that’s working for me dealing with that. Then I met with Spiro Stavis, he’s higher than Gouvatsos, and I’ve done exactly what I was told to do and I submitted my section 96.

30 Can I take you then to page 160 in volume 16. It’s a message from a member of staff to Spiro Stavis and the message was sent to Mr Stavis on 23 March, 2015 at 9.30am and the message reads, “Call for Spiro,” as in telephone call, “Said he would know what it was about,” and the heading is, “Forward Jimmy Maroun,” and then it has your telephone number. Were you ringing Mr Stavis in late March of 2015 about these matters?---The only two people I’ve talked to in council is Spiro Stavis and Jim Montague. So, what I called him for that day, I don't recall but chasing things up because you can’t get through to a team leader and get a straight answer because they’re snowed under, so you go straight to the boss.

Now, I've given you the information already that he DA to add two storeys to the approved development was lodged on 9 June, 2015.---Yeah.

40 If I take you to page 161 of volume 16, that’s a message for Spiro Stavis’s personal assistant, and the heading is Jimmy Maroun, and it has your phone number, and the date of the message is 7 April, 2015, so it’s before the second DA was lodged, you understand?---Yes.

And it reads, “Initially asked for you and Spiro,” you being the PA, the personal assistant and Spiro, “Regarding lodging a DA. He didn’t want to give me any information and wanted only to talk to Spiro.” So were you – I withdraw that. This message would seem to indicate that you wanted to talk

to Spiro about lodging the DA that you did in fact lodge a couple of months later for the additional two storeys. You understand that?---I do understand but I don't recall the reason for my call, maybe to follow up where we're at with the approval, maybe.

Well, it's regarding lodging a DA, so it's talking about something you were proposing to do in the future, and we know that in the future, only two months later, you did lodge a DA, and that DA was for 538 Canterbury Road. So - - -?---That was lodged before this message.

10

- - - would you agree that the likelihood is that you were asking to speak with him about your intentions to lodge the DA for 538 Canterbury Road? ---Was that after I lodge or before I lodged?

Before, sir, two months before.---Yeah.

20 So would you agree that the likelihood is you were trying to contact Mr Stavis to talk to him about the DA that you ultimately lodged on 9 June, 2015 to add two storeys to the approved development?---I don't recall what this message is, is for. What I'm saying to you, what I'm trying to explain is, I either called him to lodge or the status where the, where the DA is at. There's nothing else for me to do on 538, if I did lodge.

Well, when did your consultants, that is to say town planners and architects, start to prepare the documentation for the DA to add two storeys to 538 Canterbury Road?---After that meeting between myself and Spiro Stavis and Pierre, and when the architect went and met with the team leader. Andrew Hargreaves is his name.

30 Thank you. When did you instruct your consultant architect and consultant town planner to start preparing the documentation for that second DA? ---Immediately after the meeting.

But you must have wanted to have the meeting, is that right?---To know what to do, yes.

So when did you decide that you wanted to lodge an application to add two extra storeys to the approved development?---After that meeting.

40 You didn't decide that you wanted to do that soon after you got approval for the six storeys?---No.

How long did it take for the architect and the town planner and any other consultants involved to prepare the documentation for the second DA to add two storeys to the approved development?---I don't remember.

It's usually the sort of thing that takes a bit of a while to do, doesn't it, you know, at least a couple of months to prepare the documentation?---I'd say so, yeah.

Now, I've taken you to two separate messages, one on 23 March and the other on 7 April, by Mr Stavis's staff indicating that you wanted to speak with Mr Stavis. In between those two dates on 26 March, if we can go back to volume 17, page 302, item 43. This is a text message from you on 26 March at 10.06am to Mr Hawatt saying, "Hello, Michael. Please do not forget tonight. Call me after the gym. Thank you." That sounds as if you wanted to meet Mr Hawatt on that night doesn't it?---Yeah.

It's not just a casual getting together and enjoying each other's company but you had a reason for wanting to meet with him?---Why is that?

Well, no, that's my question, sir. Why was it?---You're asking me a question three years ago why I made this call or this message.

You agree though that the wording is not the same as if you are trying to arrange to have a training session together such as, you know, do you want to work out tonight, what time. Instead it is, "Please do not forget tonight. Call me after the gym. Thank you." Indicating that a previous arrangement had been made and you wanted to make sure that he was going to keep it. ---Maybe.

Why would you have wanted to do that?---As I said, I don't recall why I did that.

But why would you have wanted to make sure that he did come and be with you in the same place at a particular time on 26 March, 2015?---That's at 10 o'clock at night did you say, what time?

Well, you rang, I'm sorry, you've texted him at 10.06am and you said, "Please do not forget tonight." And then you said, "Call me after the gym. Thank you."---Yeah. Maybe we're going out. Maybe I want to talk to him about something. I don't recall.

You didn't want to talk to him about any part of your business?---Maybe.

Any part of your business with Canterbury Council?---Yes, maybe.

And that business would have been in respect of either 538 Canterbury Road or 445, is that right, and what's happening with the RMS?---I've got nothing else at Canterbury Council. Only those two issues.

Then on the same page, 302, item 44 is at 7.02pm and it's from Mr Hawatt to you. This is still on 26 March, 2015 and it's after you have said back in the morning, "Hello, Michael. Please do not forget tonight. Call me after

the gym. Thank you.” This message at 7.02pm from Mr Hawatt to you reads, “At council meeting. See you at the gym after.” And then at 9.53pm you texted him, the same night, saying, “Hi, Michael. Still there.” At 10.29pm Mr Hawatt responded, “Coming now.” So it seems as if you wanted to meet Mr Hawatt at the gym rather than going somewhere else afterwards doesn’t it?---Yeah, it had to be like that, yes.

Do you know what it was that you wanted to speak with Mr Hawatt about?  
---I don’t recall.

10

Can I take you to item 47 on page 302 of volume 17. It’s a text on 31 March, 2015 by you to Mr Hawatt at 5.28pm and it reads, “Hi Michael. If free, I be at gym tonight. Let me know.” Sound like just a meetup, would you agree with that? You were trying to arrange to be in the same place as him at a particular time?---At the gym, it might be my place, it might be somewhere else.

Well, I understand why you say that but the message was, “If free, I be at gym tonight. Let me know.” So, it sounds as if you’re trying to arrange for him to be at the gym that night?---Yes.

20

And then the same evening at 7.19pm, this is on 31 March, 2015, you texted Mr Hawatt, “You coming to gym?” And on page 303, item 49, Mr Hawatt texted you at 7.19pm, “Yes, later.” You agree that it sounds as if there’s an arrangement there or you’re trying to arrange for a meetup with Mr Hawatt at the gym?---Yes.

Can I take you back to volume 16, page 161, please. I’m sorry, that’s the message of 7 April where you had called Spiro, you had asked to speak to Spiro Stavis regarding lodging a DA. We’ve gone through that, I’ll go on to the next one. Still in volume 16, can I take you to page 162. This is an email, sir, from Tony and I’m going to mispronounce his name, I’m sure, so could you tell me how to pronounce it, Jreige, J-r-e-i-g-e. How do I pronounce that?---Jreige.

30

Jreige. Thank you.---Jreige, yeah.

To Spiro Stavis on 21 April, 2015 and it’s about 538-546 Canterbury Road, Campsie. The email reads, “Afternoon Spiro. Please see attached architectural drawings for tomorrow’s meeting as requested by Mr Jimmy Maroun. See you at 2.00pm.” So, this is about one and a half months before you lodged the DA for the two additional storeys?---I don’t, I don’t remember the date but if you realised this guy, Tony, he took over from the guy that did the DA, the, the initial DA. So, he’s new to the job and he prepared a sketch or whatever he did to meet with Spiro.

40

Well, it seems like a fairly full set of plans actually. If you go, I don't know if you've got page 162 in front of you and I appreciate you can't read well, but if you could go to page 163 through to 200. I'm sorry?

THE COMMISSIONER: Yes. Maybe if we could give Mr Maroun volume 16, so you can at least have look at the diagrams.

MR BUCHANAN: Thank you. On the screen you can see - - -?---I can see drawings, yeah.

10

Yes. And if we can flip through them and you can see the nature of them.

THE COMMISSIONER: Commences after 163.

MR BUCHANAN: Mr Jreige worked at an architectural firm called Urban Link, is that right?---He's the principal of Urban Link.

20

Thank you. And if we go to – and I think we've seen already, sorry, at page – I withdraw that. It would seem that Mr Jreige thought that there was an arrangement that you had made for him to meet with Mr Stavis to show him those plans or to speak to those plans.---Maybe.

Now, do you have a memory of whether you were there at a meeting that would have been held on 22 April, 2015 where Mr Jreige spoke to his plans with Mr Stavis at council chambers?---I'm not 100 per cent sure, no.

Do you remember being present on any occasion when Mr Jreige went through the plans that were proposed for the additional two storeys?  
---I remember when he met with, I just mentioned his name - - -

30

THE COMMISSIONER: Mr Hargreaves?---Mr Hargreaves. He was there. But I don't remember him already drawn the plans and going through 'em with Hargreaves or Stavis. I don't remember that. I remember him taking the notes what he needs to do.

40

MR BUCHANAN: Now, yesterday I took you – if we could go to volume 16, page 86, please, and then 87/88. Yesterday I took you to these pages which are a submission that was made to council in early July 2014 on your behalf for a planning proposal, and it was in respect of both 445 Canterbury Road and also 538 Canterbury Road, and it was to have the building height control increased from 18 metres to 25 metres. So that was in July of 2014. What I want to take you to now is page, excuse me a moment, page 13 of volume 15, please. This is a set of minutes of the meeting of the City Development Committee of council that met on 14 May, 2015, so a bit less than a year later, after that submission had been lodged by your planner, Adam.---For which job?

Well, both. Well, no, I withdraw that. I'll tell you what it says. It resolves that a planning proposal be prepared, be prepared by council, to increase the maximum permissible building height of 538-546 Canterbury Road and also another property, 570-580 Canterbury Road.---I've got nothing to do with 570-580.

Yes, I understand that.---Yeah.

10 I understand, but I just want to give you the complete picture, because 570 was at the other end of the block, wasn't it?---Yes.

And it was top increase the maximum building height at those two sites from 18 meters to 25 metres. Now, it was a motion that was moved by Councillor Hawatt and seconded by Councillor Azzi. Did you have any contact with Councillor Hawatt or Councillor Azzi before that motion was resolved upon by the City Development Committee on 14 May, 2015 about having that decision made?---I don't recall that incident at all.

20 Well, we've been through what, we've been through the significance of a planning proposal before, yesterday and today. That's to the council to make a submission, a proposal to the department for the building control of the building height to be loosened so that the building height could be higher than it currently is in the LEP, in this case the 25 metres instead of 18 metres, and then it has to go through a process if the department approves it and doesn't ask for any further information it might go to public exhibition then it might go back to council or it might go to the department and if it was all successful the LEP would be amended and that would be the new building control. You understand that's what a planning proposal was?---  
Yes.

30 And that was what your planner was trying to achieve when he sent that submission to council that I took you to earlier. You had an interest in that planning, in such a planning proposal being successful didn't you?---Yeah, I got two extra levels.

I'm sorry, sir?

MR GRANT: Yes, I got two more levels.

40 THE WITNESS: I got two more levels.

MR BUCHANAN: Yes. Well, you got two more levels because a DA was approved. What I'm asking you about is the control being changed or amended or varied so that instead of the limit being 18 metres the limit for anyone building on that site would be 25 metres. I'm asking you about that and I'm asking you you knew that your planner had asked council to set the ball rolling to get that limit increased from 18 metres to 25 metres, not in

respect of a DA but the limit itself in the LEP hadn't you?---Yes. You can say yes.

And did you discuss with Mr Hawatt or Mr Azzi getting that request approved by council?---I don't recall that but normally I do but I don't recall that. I don't recall anything was done by Adam Burns that includes (not transcribable) my site. When he mentioned 570-580 I don't recall at any council meeting I was there when he was representing 570-580 so on that topic on that particular night more than likely I wouldn't be there.

10

THE COMMISSIONER: Was it your practice if one of your properties was being discussed at a council meeting or a City Development Committee meeting you would attend the meeting?---Yes. 90 per cent, yes.

MR BUCHANAN: I'll just ask you to assume this that the owner of 570-580 Canterbury Road, Mr Demian, had also lodged a request for the building control to be changed from 18 metres to 25 metres and the only significance is – I'm sorry, the only significance of 570 being in the same resolution as 538 is that council decided to deal with them together. That's all it means. It doesn't mean that you asked for 570 to be increased. It just means that council decided we'll deal with these two requests at the same time in the one resolution.---Okay.

20

So you can leave aside the fact that 570 was included in the motion or in the resolution and we're just focusing now on the fact that we know from the minutes of the City Development Committee that on 14 May it considered a motion by Councillors Hawatt and Azzi to increase the building height limit or rather to set the ball rolling to make a proposal, send a proposal up to the department to have the limit of 18 metres in the LEP varied so that it was 25 metres instead. Now, knowing that it's likely isn't it that you would have spoken to Mr Azzi and/or Mr Hawatt about that beforehand?---More than likely, yes.

30

And you would have wanted the motion to be introduced and you would have wanted the motion to be passed, is that fair to say?---It's their job to do the right thing by their current councillors. It's their job how to, how to approach that. I can't tell either one of them, "You put the motion, you second the motion," what to say, what to say for the motion. I can only ask what I'm going through, if anything can be done about it.

40

And so you accept that you would have spoken to Mr Azzi and Mr Hawatt as to whether anything could be done to increase the building height limit from 18 metres to a height of 25 metres?---More than likely, yes.

And did they ever say to you, "Oh, no, we can't do that," or did they indicate to you, "Oh, yes, we can do that," and then start discussing how that can be done?---I can't remember what their response was but I can only, I can only ask what I know is happening in the area. Like we went through

yesterday about 457, they're asking for eight levels, that's why I asked for eight levels at 538.

Did you have any contact with Mr Montague about council starting the ball rolling, introducing a planning proposal to have the limit on building heights for that site, 538 Canterbury Road, increased from 18 metres to 25 metres?  
---I wouldn't do that.

Why not?---Why would I tell the GM what do you?

10

Well, are you saying that the only times you ever met with the GM, you were telling him what to do?---No, asking him where are we at with, I thought you asked me if I met with Montague.

Mr Montague or had any contact with him?---Or had any contact about him about the councillors, the motion in or how to do about it. Isn't that right?

Well, I'm asking you whether you had any contact with Mr Montague about council agreeing to put forward a planning proposal to the department to increase the building height limit from 18 metres to 25 metres for your site?  
---I don't remember.

20

Is it possible that you did?---Maybe.

Did you have any contact with Mr Stavis about him supporting your architect's submission for the building height limit to be increased from 18 metres to 25 metres on that site?---Yes.

And what contact did you have with Mr Stavis on that subject?---"What can I do to increase the height from 18 to 25?"

30

And I want to check now that we're talking about the same thing. I'm talking about the limit not about your application, not talking about your development application, I'm talking about the legal limit being changed from 18 metres to 25 metres.---That I can't talk about because I don't know anything about it.

If I tell you that the, the council officer's report to the meeting of the City Development Committee that was held on 14 May, 2015, which decided to prepare a planning proposal to increase the maximum height limit from 18 metres to 25 metres supported your submission, this is volume 15, page 3, Commissioner. What would you say?---Maybe, yeah.

40

Do you know anything that you can assist us with as to any contact you had with Mr Stavis that would explain that or assist us in understanding that?  
---The only contact, the only contact I've had with Mr Stavis is what I've told you. Anything other than that, about the height, I wasn't involved in, I don't know I had to, I had to be involved.

Was it something that you were relying on Mr Hawatt and Mr Azzi to look after your interests in respect of?---No, because when I spoke to them, they referred me to Spiro Stavis and that's when I went and met with Spiro Stavis.

10 Can I take you to another email message, this is on page 201 of volume 16. This is an email message again from Mr Spiro Stavis's staff to him dated 19 May, 2015, so we've moved into May now, and it reads, "Hi, Spiro. For your information." And then it's a message from another staff members that says, "538-546 Canterbury Road, Campsie, he would like to speak with Spiro." And the heading of the message is Jimmy Maroun, and then it has your mobile telephone number. So can you see that there appears to be a bit of a pattern of certainly trying to speak with Mr Stavis in this period of March/April/May of 2015?---What was the question, sorry?

Can you see that there was a pattern - - -?---Yeah, I'm following things up.

20 - - - of you trying to contact Mr Stavis?---I'm following things up.

And what was it that you were following up at this time, in May 2015?  
---It's about 538.

538?---538, yes, 538. And it just came to me now, he was involved in RMS issues as well so probably I met him a couple of times about the RMS issues.

30 And when you say probably, do you mean that you know you did?---Yes, I did, but I don't know how many times. Probably two or three times.

I'm talking about 2015 now, after you'd withdrawn the DA.---Yes.

You met with Mr Stavis about the RMS issues that affected your other property. Is that right?---After I withdraw the submission, I was following up RMS so I can re-submit, 'cause I had a deadline to meet to get the DA through for the purchaser. I remember one my lawyer went with me to that meeting, trying to find out from Spiro Stavis the status of RMS so we can reply back to the purchaser's solicitors.

40 And what was the deadline?---Keep on changing. They say, as I said before, six months, three, three months, next week, next month.

And is this a purchaser from you?---(No Audible Reply)

A person purchasing from you?---Yes.

THE COMMISSIONER: And what was your deadline to get your

DA through?---My deadline was around late '15 I think it was, so I ended up selling the site as is without approval, for less money of course, because we couldn't get the RMS issue sorted.

MR BUCHANAN: Now, if I can take you to volume 17, page 1, please. This is a development application that I've talked about before, the second one, and it's got a received stamp on it of 9 June, 2015, and the applicant is Jarek, J-a-r-e-k, Holdings Pty Limited, and you're the contact person nominated on it, and if we go down to the owner's consent, can you see your signature?---Yes.

Thank you. And I should have indicated that the property concerned in 538-546 Canterbury Road and if we go to page 2, the short description of the proposed development is, "Additional two residential floors to already approved development application, DA 555/2014." Can I take you to page 80 of volume 17. This is a section 96 application to modify a development consent and the received stamp date is 10 June, 2015 and it's been assigned the number DA 255/2014/A and it's again in respect of 538-546 Canterbury Road and the applicant is Jarek Holdings Pty Ltd and the description of the works is, "Modifications of internal layout and footprint of existing apartments." So, you lodged, pretty much at the same time, the development application for the additional two storeys on the approved development and an application to modify the approved development and that modification was having regard to the fact that you wanted to put two extra storeys on to the approved development. Is that right?---Yes.

And did anyone give you advice that you need to lodge this section 96 application in respect of the approved development, if you were to have any chance of success in getting the DA for two additional storeys approved? ---I've done everything to do with council like, application forms and so on, what I was told by the staff, either Spiro Stavis or whoever.

Yes. I understand that's your general evidence but what I'm trying to ask you to assist us with is, did anyone give you advice specifically, "Look, if you want two extra storeys on what you've already got, then you're going to have to change the six storeys that you've already got in order to accommodate those two extra storeys." Did anyone tell you that?---Maybe.

You don't remember?---No.

You don't remember whether Spiro Stavis told you that?---Not too sure.

I'm not saying he did, I'm just asking.---If I did, if I did that, I'd be doing that on instructions or, or on the advice that I do get from, from staff.

And when you say staff, do you mean your staff or council staff?---Council staff.

Can I take you, excuse me a moment, to volume 17, page 11. This is a statement of environmental effects that was lodged, it's got a receipt date of 5 June, 2015 and it's got a document dated 29 May, 2015 and it is described on the front page as, "Additional level of basement parking and addition two residential floors associated with DA 255/2014 to create an eight storey mixed use development with parking for 104 vehicle at 538-546 Canterbury Road, Campsie," and it's lodged by Think Planners.---? - - -Adam Burns, yep.

10 Can I take you to page 14 of the statement of environmental effects. Under the heading Executive Summary at the top it says, "This statement of environmental effects has been prepared in support of a development application for the amendment of DA/255/2014 to provide for an additional basement level and two additional residential levels on top of the building. This is to respond to a council resolution to prepare a planning proposal to increase the building height on the site from 18 metres to 25 metres (City Development Committee 14 May, 2015)." You instructed that this statement of environmental effects be prepared I take it?---Yes.

20 Can I suggest to you that it's quite a thick document and involves a lot of technical material and would have taken many weeks to prepare. Would you accept that?---Maybe, yes.

Well, you know what a statement of environmental effects is generally don't you?---Yes, I do.

It's got a whole stack of data in it that is lodged with a DA to support the DA isn't it, is that correct?---Yeah.

30 And this particular DA goes for 67 pages, pages 11 to 79. Have I got my maths right? This particular statement of environmental effects, I misspoke, goes for some 68 pages and it's dense with data. It would have taken weeks to prepare. You'd accept that wouldn't you?---Yeah. I'd say yes.

And what I want to suggest is that if the date on the document is correct, 29 May, 2015, then preparation of this document started long before the City Development Committee resolution of 14 May, 2015 saying that the height limit, there should be a planning proposal put forward to increase the height limit to 25 metres. Do you understand that?---Yes, I do.

40 And so my question is, did you know when you instructed for this statement of environmental effects to be prepared that council was going to at some stage in the future resolve to have a planning proposal prepared to increase the building height on the site from 18 metres to 25 metres?---Definitely not. I just told you before it's the first time I've heard about it.

Well, it seems like the author of the document seemed to know or another explanation is that that sentence that this is to respond to a council

resolution which in fact was passed on 14 May, 2015 was added after the document had been prepared.---That's a question to Adam.

But of course it's a bit misleading to say that the statement of environmental effects has been prepared to respond to something when that something hasn't even occurred isn't it?---Yes, you're right.

And so the question is how did the person who prepared this know that the resolution was going to go through?

10

MR GRANT: Look, I object to the form of the question. It can be asked a different way.

MR BUCHANAN: All right. I'll need a bit more than that before I can consider it.

MR GRANT: Well, my learned friend really needs to ask him about what did he know in relation to it as opposed to saying well, how do you think Adam knew or how did somebody else know to put this in the document.

20

MR BUCHANAN: I understand the objection. I'll reframe the question. Can you assist us as to how as far as you're concerned Adam would have understood that the planning proposal was going to go through on 14 May, 2015 or thereabouts to increase the height limit to 25 metres at the time he prepared this document?---Well, I can only answer you one way. He did the initial preparation, the initial report and he failed when he went for seven storeys that it was wrong so how he does his work, I'm paying him to do his work and how he does it I've got no idea.

30 Can I suggest to you that that cannot be a logical explanation because a statement of environmental effects for a seven-storey building is a very different exercise from adding two storeys to a six-storey building?---I understand.

Architecturally, planning wise, in respect of all the metrics that are in this document. A very different exercise.---Yeah.

So that can't be right.---When you say it can't be right?

40 It can't have been prepared for the original DA.---You know more, you know more than I do. That's all I can say.

Well, you might be able to assist us with this, had you had any indication from Mr Azzi or Mr Hawatt that council would resolve that a planning proposal be prepared to increase the building height on the site from 18 metres to 25 metres?---I can't remember.

Before that was actually done?---I don't remember. I don't think so.

Did you convey to Adam – is this Adam Burns?---Yes.

Did you convey to Adam Burns that, as you understood it, the planning proposal that was sought by Adam’s submission to increase the building height limit from 18 metres to 25 metres would be successful?---No, because it’s a big risk.

10 Is there any other explanation that you can assist us with as to how that statement could be prepared if it’s correct?---From my experience, town planners, they do know things that I don't know personally. In other words, they do know what’s coming up in, in, in most cases. That’s what I learnt to know. So, how he did his report, saying whatever he said in his reports, I haven’t read is reports the day or before. I've got no idea.

Do you know whether Adam Burns had any contact with Mr Hawatt or Mr Azzi about the submission for a planning proposal to increase the height limit from 18 metres to 25 metres?---No, not to my knowledge.

20 Is it likely that they would have had contact with each other, that is to say Adam Burns on the one hand Azzi and Hawatt on the other? Azzi or Hawatt?---I don't know, I don't know.

You didn’t introduce them?---No.

One to the other?---No.

30 Can I take you to volume 17, page 303. I withdraw the question. I stand corrected, unsurprisingly, Commissioner, as to my maths. The statement of environmental effects is 54 pages long, not 68.

THE COMMISSIONER: Thank you.

40 MR BUCHANAN: Can I take us please to page 303 of volume 17. This is the table of SMS messages extracted from Mr Hawatt’s telephone. If we go to item 62 in the middle of the page, it’s a message to Spiro Stavis from Mr Montague, I go apologise, Mr Hawatt. So, I'll say that again. It’s on Mr Hawatt’s telephone. He, here at item 62, is sending a message to Mr Stavis and it is at 2.47pm and it reads, “Hi Spiro,” and then he had four items as if it’s an agenda, of different things that Mr Hawatt wants to raise with Mr Stavis or what’s Mr Stavis to do. The second one is “Can you arrange a meeting re Jimmy Maroun sites on Canterbury Road, Campsie, with Jim Montague as well?” So this is after you have lodged your second DA and the accompanying section 96 application. Do you know why Mr Hawatt would have been asking Mr Stavis to arrange a meeting with Mr Montague about your sites on Canterbury Road?---I've got no idea. I don't recall anything. It will be about the DA or the RMS.

Well, because he says “sites” it would be a logical inference that he meant both.---Both, yeah.

Do you recall having a meeting about both with Mr Montague?---No.

But this request would have been made because you’d asked to speak to Mr Montague with Mr Stavis about those two sites, wouldn’t it?---Maybe.

10 Well, the alternative is that it was a request made by Mr Hawatt without you asking. It’s either one or the other, isn’t it?---Yes.

And if he made the request of Mr Stavis without you asking, it sounds as if he is acting as a consultant without really your instructions but as he perceives your best interests in relation to these matters.---He’s not a consultant to me. He’s a councillor.

20 Yes. That doesn’t prevent him from being your consultant for the council side of these applications that were being made.---As long as he’s doing the right thing by council and doing his job. If I ask him to call someone or to speed up the process, that’s when I’ll be asking him or Pierre for. Never ask them for anything out of, out of line.

Now, can I take you to an internal memorandum in council, volume 17, page 103. It’s one page long. It’s by a planner called Warren Farleigh and it’s addressed to Sean Flahive, F-l-a-h-i-v-e. We were told how to pronounce it correctly and I’m afraid I’ve forgotten.

THE COMMISSIONER: I thought it was “Fla-heeve”.

30 MR BUCHANAN: “Flahve”.

THE COMMISSIONER: “Flahve”.

MR BUCHANAN: “Flahve”. I think we were told it’s pronounced “Flahve”. Anyway, sorry, we’re just trying to get a name right.---Depend which school you went to.

Sorry?---It depends which school you went to.

40 Exactly. Exactly. And which country one comes from.---Exactly.

Now, the subject matter of this internal memo is 538-546 Canterbury Road, Campsie, and it offers a number of comments. So this is one assessment officer talking to another about your application, and it reads, the first point is, “Even though there is a resolution to prepare a planning proposal for this site and the site on the corner of Canterbury Road and Chelmsford, it is yet to be submitted to the Department of Planning for a Gateway Determination. There is therefore no surety that it will receive a Gateway

Determination or, if it does, the terms of any such determination. Additional yield on this site will also impact on the current RMS study, and until the results of this are known and implications assessed, it would not be appropriate to approve this application. Despite what might be contended in the statement, the use of clause 4.6 of the LEP to consider variations of the magnitude proposed are not appropriate. Again at this point in time there is no surety the statutory height controls will change.” The author then goes on to say, amongst other things, there have been no attempts to introduce setbacks and the outcome is poor in terms of design quality.---That’s not my  
10 site, by the way.

That’s not your - - -?---Site.

Well, 538-546 Canterbury Road was your site?---Yes.

And yes, it referred to a site on the corner of Canterbury Road and Chelmsford, but that’s 570 Canterbury Road, isn’t it?---570-580 I think, yeah.

20 Yes. And we know that that was owned by Mr Demian. Correct?---Don’t know.

Well, I told you - - -?---I know he owns next door.

I’m sorry, I told you that both sites were the subject of the council resolution.---Okay, sorry, sorry.

That’s okay. Sorry, I’m not trying to - - -?---No, you’re raising your voice, that’s fine.  
30

That’s quite right and I shouldn’t.---That’s all right.

But do you recall that I told you that the council resolution for the planning proposal to increase the building height limit from 18 metres to 25 metres was in respect of two different sites, one was yours, 538, the other was 570 Canterbury Road?---I do, but when you read this memo you didn’t mention 538, that’s why I said the corner of Chelmsford doesn’t belong to me.

Okay.  
40

THE COMMISSIONER: But the subject of the memo is 538.---Yes, thank you.

MR BUCHANAN: Did anyone draw to your attention the, as it were, arguments that are contained in that council memorandum about your application, your DA?---Sorry, repeat the question again?

I'll put it in another way. The thrust of the argument in the memo is, if your second DA is for a development that would go up to 25 metres and yet the limit, height limit is 18 metres, then just because there is a proposal to change it from 18 metres to 25 metres doesn't mean that your DA should be assessed against a control of 25 metres, your DA needs to be assessed against the existing control, which is 18 metres, but there's a big difference between 18 metres and 25 metres and that therefore this DA shouldn't go ahead until there is some outcome of the planning proposal to change the limit from 18 metres to 25 metres. Now, did anyone run that argument past you or indicate that that was a concern on the part of anyone at council?  
10 ---No, but then again I keep on remembering the 4.6, I don't know what's that mean, the varied height, that's why I left everything to the professionals as in the town planner mainly, and the architect.

Well, you would have understood, wouldn't you, when from that period, that clause 4.6 was a part of the law, the LEP, that applied to your land which said if you want to not comply with a development control that is imposed by the LEP, then you have to meet these tests, you have to go through these hoops to say that the building control shouldn't apply?  
20 ---Well, I'm learning about the 4.6 here, yesterday and today.

But didn't you know about that at the time you were going through this?  
---No.

You mean to say your consultants never discussed it with you?---He discussed, he mentioned 4.6 but he didn't explain to me the terminology behind 4.6.

Or didn't explain to you the effect of 4.6 and what you had to do to meet the requirements of clause 4.6?---I don't remember. I don't remember.  
30

No one explained to you that the requirements of clause 4.6 are really quite strict and difficult to satisfy?---No.

No one gave you to believe that, you know, it's actually quite difficult to satisfy clause 4.6?---Now I know.

Yes, but no one at that time - - -?---Nobody, no.

- - - gave you to understand that?---Sorry?  
40

No one at that time in 2015 indicated to you that it's actually quite difficult to satisfy clause 4.6?---No.

Now, I'll just take you back to Mr Azzi and Mr Hawatt if I can. Pages 303 to 304. You see there are actually quite a lot of text messages exchanged between you and Mr Hawatt in the evidence before the Commission and I'm not going to go through all of them but if we look at the month of July that

starts at item 63 and we go over to item 75 we can see that there's a number of text messages between you and Mr Hawatt that continued in the month of July after you had lodged your second DA for 538 Canterbury Road. That would be right wouldn't it that you were in regular communication with him?---Before or after, yes.

10 And that would be consistent with the telephone contact that you had as well with Mr Hawatt at the same time would it? Can I just take you to Exhibit 147, page 5. Between item 214 which is on, I'm sorry, 215 which is on 1 July, 2015 through to item 238 which is on 30 July, 2015 the call charge records for your phone and Mr Hawatt's phone to the extent that we have them here show a number of contacts by telephone as well as by text message. That would be consistent with your memory of the degree of communication you were having with Mr Hawatt at that time?---Maybe, yeah.

20 I mean for example there's one call number 226 on page 5 where the telephone line on 6 July, 2015 commencing at 11.12am was open for four minutes and 53 seconds which is a reasonably lengthy conversation I think you'd agree?---Yeah.

Do you know what you were talking to Mr Hawatt about?---No.

What are the sorts of things that you would have a lengthy conversation with Mr Hawatt about in July, 2015?---I don't remember. Like, it could be anything. It could be sport. It could be politics. It could be family. It could be work. It could be anything.

30 Excuse me a moment, please. Now, if I can take you, please, to page 114 of volume 17. You remember I took you to a one page memo where one planner was talking to another - - -?---Yes.

- - - and they were saying look, there are some problems with your second DA but they were just talking to each other about it?---Farleigh and someone else, yeah.

That's correct.---Yeah.

40 You won't be able to read it on the screen but there's a letter that was addressed to Jarek Holdings Pty Limited by Mr Pratt, the team leader of planning at council dated 20 August, 2015 and it's seven pages long and it is about your second DA, DA 243/2015. And it goes through a number of issues and it describes what they have done as being a preliminary assessment of your application and they say they've identified the following matters for your attention. Now, those things included under the heading – I'm sorry, page 115. Under the heading, “Canterbury Local Environmental Plan, 2012,” and a subheading, “Clause 4.6 submission.” You were told by Mr Pratt that, “The application under clause 4.6 of the LEP should

demonstrate that varying the development standard will result in better environmental outcomes.” That’s at about point 8 on the page. Excuse me. Page 116, he identified what he saw as shortfalls in the application submitted to date, including in relation to height variation at about halfway down the page under the heading, “4.3 Height of buildings.” He sets out what the control was and the Local Environmental Plan and at about point 8, “The additional floors will increase overshadowing of the adjoining residential units to the south. Compliance with internal solar access also needs to be demonstrated,” and then I’ll skip the next sentence. He goes on to say, “In the context of Canterbury Road, it could be considered that the allowable heights reflect an urban density and form consistent with a higher density area situated along a main arterial road that is edged by mixed uses and which support the surrounding residential development.” If I can take you to page 120 at about the middle of the page it says, “It is considered that this application cannot be supported in its present form. In this regard, the application should be withdrawn and the issues raised in this letter be addressed prior to resubmission,” and generally the – I’m sorry, the next paragraph, Mr Pratt said, “Should you wish to provide amended plans and/or additional information, these documents must be submitted to council within 21 days of the date of this letter otherwise we assess your application based on the information already submitted which is likely to result in refusal of your development application.” Did anyone draw to your attention a letter to that effect or a communication to that effect?---I think I remember something like that and we responded back to them. The architect and the town planner, they responded back to them with the new drawings, amended drawings. I think, I’m not a hundred per cent but I remember an incident like that where we were very tight with the timing and we got it through. I don’t know if it’s about this project or another project.

30 But it was Canterbury Council. Is that your recollection?---Yep.

And you weren’t putting forward plans in respect of the other project because the other project you were waiting on advice about how the RMS were - - -?---No, the other project I never resubmitted. I sold it without, as is, as B6 enterprise corridor. For 538?

Yes.---More than likely that’s the site that we’re given about two/three weeks to respond back and it was given to the town planner and architect and to my recollection, they responded back to them, the council.

40 Can I take you to volume 17, page 304, item 81 and 82. This is a text on 25 August, so it’s a few days after that letter was sent, and it’s a text from you to Mr Hawatt on 25 August, 2015, I’m sorry, at 8.12am. And it says, “Hello, Michael. If possible, I need to see you at gym today. Thank you.” And the response at 8.33am from Mr Hawatt is, “I will be at Earlwood just before 2.00pm today if you’re free,” and you replied, “I am free.” Now, it would look from your email as if you had a need to see Mr Hawatt on that occasion.---You continually feel that way but, and you’re trying to ask me if

I, what was the purpose of that call. I don't recall, but I've said before that, yes, I do speak to Michael and Pierre if I do have any problems at Canterbury Council. But for that SMS or that message, I don't know what's, what's, what's the reason for it.

Given that it is so shortly after the date of that letter, and given that the letter was saying you're risking refusal of your DA, don't you think it's highly likely that when you said you needed - - -?---Maybe.

10 - - - to speak to Michael Hawatt at the gym that day, what you meant was, "I need to speak to you today about this letter I've received from council"? Don't you think that's likely?---Yes and no. Why should I explain myself what I need him for every time I message him? Let's go to eat this, let's go to drink that or let's go and sort this or let's go and sort that or – when I do see him face to face, then I'll go into everything with him.

Yes, but you understand what the Commission is conducting is an investigation.---Yes.

20 It's trying to conduct an investigation into facts, things that happened in the past. And what the Commission does is look at the evidence that's before it and see whether conclusions can be drawn as to what happened in the past. And what I'm putting to you is that a combination of that letter of 20 August, together with the pattern of your contact with Mr Hawatt and Mr Azzi, together with the SMS you actually sent at 8.12am on 25 August, lead really inexorably – as in inevitably – to the conclusion that on that occasion when you sent that text you were saying to Michael Hawatt, "I need to talk to you. I've just received this disturbing communication and I need to talk to you about it." Don't you think that would be a fair conclusion to be  
30 drawn?---Everyone has different way of handling things. Normally the way, the way I do it, if you're talking about that letter, I'll send that letter to the architect and to the town planner before I call Michael Hawatt or Pierre or whoever. I didn't explain to discuss in the email or in the SMS as to why I've got to meet with him. I can't answer this. I can't remember the reason for the SMS on that day.

But the likelihood is that it was about this communication.---More than likely, yes. More than likely, yes.

40 Yes. Because you used Michael Hawatt and Pierre Azzi to help you get your applications approved, didn't you?---Yes.

And amongst other things, they gave you advice and you sought that advice from time to time.---The advice is from staff, not from them.

I note the time, Commissioner. I'm sorry. I've gone a bit over time.

THE COMMISSIONER: All right. We'll adjourn for the morning tea break and we'll be back in 20 minutes.

**SHORT ADJOURNMENT**

**[11.34am]**

THE COMMISSIONER: Mr Maroun.

10 MR BUCHANAN: Commissioner.

Mr Maroun, before the morning adjournment I took you to page 304 of volume 17 in which is recorded at item 81 a text message that you sent to Mr Hawatt on 25 August, 2015 at 8.12am. "Hello, Michael. If possible I need to see you at gym today. Thank you." And we spoke about that before morning tea. I'll take you to another message now, please, still on page 314 at item 84. Item 84 is a text message from you to Mr Hawatt on 16 September, 2015 at 6.08pm, and it reads, "Hello, Michael. Need to see you at gym if possible. Thank you." Again you've used the word "need,"  
20 indicating that you had some necessity to see Mr Hawatt. You accept that?  
---Not necessarily.

Why otherwise would you use the word need?---Just the way I, I use the wordings.

But to the person who receives that text message it would indicate some necessity, rather than if you had words like, do you want to train at the gym this evening at 7 o'clock, for example, doesn't it?---You might be right.

30 Now, on that evening, 16 September, 2015, message number 85 is at 6.09pm and it's to you from Mr Hawatt and it reads, "I am at the Bardwell Park RSL if you want to come there." Do you remember meeting Mr Hawatt at the Bardwell Park RSL?---Yes, I do.

And why did you go to the Bardwell Park RSL to see Mr Hawatt on 16 September, 2015?---Socialising maybe, talking about some things. I've been there a few times. That's the local club in the area.

40 Was there something in particular you needed to do with Mr Hawatt at the time you went to the Bardwell Park RSL on 16 September, 2015 to see Mr Hawatt?---I don't remember.

What I want to do is take you to some documents in a bundle of documents. The bundle of documents is a set of financial records. Commissioner, I propose to take the witness through almost all the documents in the bundle. It might be convenient if I tender it at this stage, and it will be apparent after I have taken the witness through it how they are organised, and this bundle

has been paginated, pages 2 to 145. There is an additional one page but I'll be tendering that later, if I can.

THE COMMISSIONER: All right. Should this be described as folder of documents - - -

10 MR BUCHANAN: Jimmy Maroun, financial records. Although, they're not all Mr Maroun's records but they relate to Mr Maroun. What we're endeavouring to investigate is the extent to which, if at all, they relate to Mr Maroun.

THE COMMISSIONER: All right. The folder of documents, pages 2 to 145, dealing with financial records relating to Jimmy Maroun will be Exhibit 149. Yes, 149.

**#EXH-149 – FOLDER OF DOCUMENTS PAGES 2 – 145 DEALING WITH FINANCIAL RECORDS RELATING TO JIMMY MAROUN**

20

MR BUCHANAN: And if I could pass a copy to the witness. Mr Maroun, a lot of what I want to show you is very small writing and it might be easiest if what we do is we show it on the screen and I'll take you through what is shown on the screen if that's convenient, but you have a copy there to refer to as well if you want to, and if you can't see the page numbers we can assist you in going to those particular page numbers, okay?---Yeah, yeah.

30 Can I take you to page 6. Page 6 is a receipt from Flight Centre dated 17 September, 2015 – that's the day after you went to the Bardwell Park RSL to see Mr Hawatt – and there is a payment by a person named Najat, and you know Mr Hawatt's wife goes by the name of Najat, don't you?---I met his wife but I don't know her name.

This is for the amount of \$3,369.86 in cash, you understand?---Yes.

40 That's page 6. If I can take you to page 7, this is a statement of account. The account is that of Michael Hawatt with City Group Pty Ltd and the last four digits of the account number are 5-3-7-9. If we go to page 8, it can be seen that on 21 September, 2015, a payment was made in the sum of \$4500. If you go to page 9, there is banking documentation in relation to that \$4500 and it's a deposit in cash on 21 September, 2015 and a signature appears there and I can inform you, Commissioner, that I'll be submitting that that signature bears a striking resemblance to Mr Hawatt's signature which appears in other documents. If we go over to page 10 this is another part of the banking documents for that transaction at Citibank and the date of the transaction is 21 September, 2015 and up in the top right-hand corner there is indicated the denominations of the cash that were deposited and it's 90

times 50, that is to say, \$50 notes, ninety \$50 notes making up a sum of \$4,500. Do you understand?---Yes, I do.

Can I now go to page 11 – I’m sorry, I withdraw that. Can I go to page 2 of Exhibit 149 and this is a page of a statement of account held at St George Bank by Rafqa, R-a-f-q-a, Holdings Pty Ltd as trustee for Rafqa Trust. That was your account?---Yes.

10 And the last four digits of the account number are 9-3-4-7. The entry that I’m drawing attention to is one for 4 September that’s about 12 days, I’m sorry, yes, about 12 days before the meeting with Mr Hawatt at Bardwell Park RSL and it’s a cash withdrawal for the sum of \$4,500. The banking documents appear at page 3 and following. The St George banking documents indicate at the top of the page on page 3 that it’s 4 September, 2015. The account name is Rafqa Holdings. The last four digits of the account number are 9-3-4-7. The amount withdrawn is cash 4,500 and the person who made the withdrawal is identified by the signature which appears on the top left-hand side. Can you see your signature there?---Yes.

20 The denominations of the cash that you were given on that occasion are indicated in the bank slip which is printed on the second half of page 3 and in the printing that is running sideways there appears against the words “cash disbursed” the numerals 90/50, that is to say 90 \$50 notes. Do you understand that?---I do.

And again the signature which appears on that slip is your signature isn’t it?---Yes.

30 Can I take you to page 4 of this exhibit. This is – excuse me a moment – the same statement of account just another copy of it for Rafqa Holdings Pty Ltd and this time the entry that I’m taking you to is a cash withdrawal on 9 September for \$1,700. The next page, page 5 has a copy of the branch record. Again the date is 9 September, 2015. The last four digits of the account number are 9-3-4-7, the same as on the preceding page for the statement of account. The cash disbursed is 17 \$100 notes and the person who made that withdrawal we identified as you because it is your signature that appears on that banking document. Can you see that on the screen?---I can see my signature, yes.

40 Now, when you were at Bardwell Park RSL with Michael Hawatt on 16 September, 2015, did you pay him, I’m sorry, did you give him cash?---No, I never gave him cash, or cheques.

Did you give him any money at all?---No.

And it’s just a coincidence that he, after that meeting, made a payment of 90 \$50 notes and that you had, preceding the meeting on 16 September, 2015, withdrawn 90 \$50 notes?

MR DREWETT: Commissioner.

THE COMMISSIONER: Yes.

MR DREWETT: I wish to raise something about Counsel Assisting's question in relation to the proposition put to the witness. I don't know if the witness can be in the witness box, but it was in relation to the suggestion that my client made a payment of that amount of money, as I understood it, it was always to be alleged that a payment was made by a person by the name of Najat, who is said to be my client's wife. I might have misunderstood that.

THE COMMISSIONER: I thought Mr Buchanan went to page 9 – I'm sorry, have you got, you haven't got a copy?

MR DREWETT: No, no.

THE COMMISSIONER: I apologise, Mr Drewett. Could page 9 be brought up?

MR BUCHANAN: We can supply a copy to my friend.

MR DREWETT: I'd be grateful, Commissioner.

THE COMMISSIONER: That would be helpful. While that's being done, Mr Buchanan, my understanding is you're relying on page 9 of Exhibit 149.

MR BUCHANAN: Yes.

THE COMMISSIONER: And as you stated to me, ultimately you will be putting that the signature that appears on the transaction receipt for the deposit or payment of \$4,500 was Mr Hawatt's.

MR BUCHANAN: Yes.

THE COMMISSIONER: And that answers Mr Drewett's inquiry?

MR BUCHANAN: Yes.

THE COMMISSIONER: Do you see that, Mr Drewett?

MR DREWETT: I'm sorry, Commissioner, I was being very rude and I was tuned off and I was looking at this document. Could I ask what the question was put to me, Commissioner?

THE COMMISSIONER: Have you got page 9?

MR DREWETT: I do, yes.

THE COMMISSIONER: Mr Buchanan, when he took Mr Maroun to page 9, noted that he will be making or Counsel Assisting will be making a submission ultimately that the signature on the transaction receipt was Mr Hawatt's, so that the payment that Mr Buchanan is now referring to is the payment of \$4,500 as evidenced in Mr Hawatt's Citibank MasterCard account at page 8. Do you see that?

10 MR DREWETT: Yes, yes, I see that, Commissioner.

THE COMMISSIONER: And also relying on page 10, that the denomination identified by the bank officer is nine times 50.

MR DREWETT: I understand that. I might have misunderstood the question as suggesting that the payment was the 4,500 I think made at a Flight Centre. If I misunderstood that proposition, then I withdraw my objection.

20 THE COMMISSIONER: Yes, I think it is, and you didn't have the documents in front of you, Mr Drewett.

MR DREWETT: Yes, thank you.

THE COMMISSIONER: I think it might have just been a little bit of confusion about that.

MR DREWETT: Yes.

30 MR BUCHANAN: So, Mr Maroun, what do you say as to the identity, identical amount of 4,500 that you withdrew from a St George account on 4 September, 2015 in 90 \$50 notes and Mr Hawatt's payment made on 21 September, 2015 of the same amount in the same number of the same denomination notes - - -?---What's the - - -

- - - when you had met him and had an opportunity to pass him that money on 16 September at the Bardwell Park RSL?---So the withdrawal was, was done on the 4<sup>th</sup>, did you say?

40 Yes.---And the meeting was on the 16<sup>th</sup>?

Yes.---I don't recall any of that.

Is it possible that you made a payment to Mr Hawatt on the occasion you saw him at the Bardwell Park RSL that you've simply forgotten about?---A payment for what? I'm trying to think.

Well, that's the question I would ask you after you have told us whether or

not it is the case that it's possible that you made him a payment but you've simply forgotten about it since.---There's nothing for me to pay to him. I've never bought anything from him.

But he provided you with services in relation to how council dealt with your applications, didn't he?---That's his duty as a councillor.

10 I want to suggest to you that you had a reason to remunerate him for the services he provided you in relation to how council dealt with your applications.---That's not right.

On 24 September, 2015, I just want you to assume that Mr Hawatt was at a meeting of council, sorry, in the council building in the evening, that's at Thursday 24 September, 2015, and that at about 10.30 that night, after the council meeting, he and Mr Azzi came over to your place.---Maybe.

Was it often the case that they came over to your place after a meeting of the council?---Sometimes.

20 Did you make a payment to Mr Hawatt or Mr Azzi on 24 September, 2015 at your house late in the evening of 24 September?---Never.

If I could show you some financial records from Exhibit 149. Excuse me a moment. Can I take you to page 21. This is a bank statement for Mr and Mrs Hawatt for an account ending in the numerals 7-2-8-9 and it shows on 28 September, 2015, a cash deposit was made of \$4,900. If we go over to page 22, it can be seen that there was a deposit slip filled out by somebody. The account ends in the numerals 7-2-8-9, the date is 28 September, 2016, the amount of the cash deposit is \$4,900. On the back of that deposit slip, appear the numerals 4-9-0-0 against the denomination identified as \$100. So, that is to say the \$4,900 was made up of \$100 notes. That's a deposit that was made into Mr and Mrs Hawatt's account on 28 September, 2016. You appreciate that?---(No Audible Reply)

40 Can I take you now to page 24. This is a statement of account for Ozsecure, one word, O-z-s-e-c-u-r-e Home Loan Pty Ltd. Did you know that Mr Hawatt had a business, a mortgage broking business, where he used the business name Ozsecure?---I knew he, he's, he's a finance broker but never dealt with him and never knew the name of his business.

If you could assume that Ozsecure Homeloan Pty Ltd was a company that was controlled by Mr Hawatt. The last four digits of the account number were 2-2-1-8. This statement of account shows that on 28 September, 2015 a cash deposit was made. So we've previously seen that on page 21 a cash deposit was made into an account with the NAB numerals 7-2-8-9 on 28 September in the sum of 4,900, now we're seeing another deposit was made the same day into another account. This time the amount was 4,500.---If I can stop you for a moment.

Yes, sure.---This came to me now. Around early to mid-September I wasn't in Australia.

Are you able to be more precise than that?---Yes. I was in Europe in 2015. '15 or '16 I'm not too sure. But around, around that time of the year I am not in Australia. I'll double-check on my passport. I know I was in Europe early to mid-September either '15 or '16 but I'm pretty sure it was '15.

10 But you have told us that you do remember going to Bardwell Park RSL and I've given you a date of 16 September as being the SMS messages that caused you to go there to see Mr Hawatt so that's mid-September isn't it, 2015?---So it must be 2016 then I've been in Europe. Anyway, sorry to disturb you.

And to your knowledge were Mr Hawatt and Mr Azzi in the habit of going to your house when you weren't there?---By themselves without, when I'm not there?

20 Yes.---Very rarely.

So we're now talking about 24 September and what I've suggested to you is that there will be material before the Commission that shows that they went from the council chambers that evening to your house and went inside. ---Yes, maybe.

The likelihood is that you were inside isn't it?---Yes.

30 So going back to page 25. In respect of the deposit in cash recorded in the statement of account on page 24 there is a deposit slip. It's NAB. The last four digits of the account number are 2-2-1-8. The date of the deposit is 28 September, 2015. The amount of the deposit is \$4,500 and on the back of the slip there is an indication that the denominations were one, namely, the \$100 notes. So 4,500 was paid into the Ozsecure Homeloan account in \$100 notes. You understand that?---Yes.

40 Can I take you to page 27. This is a front page of an account for Michael Hawatt held by Citigroup Pty Ltd. The last four digits of the account are 5-3-7-9. We go over the page to page 28 in the exhibit. You can see that on 28 September there's another deposit. This is a third deposit. Again cash apparently via Australia Post but the amount is \$3,000. There is a reference to it in – excuse me a moment. On the next page, page 29, where there are two entries which have been highlighted in a red box, and what I want to take you to is the first one that's highlighted in the red box, because it says at the end of it, "Lakemba Post." Do you see that? Well, sorry, I understand you can't see that, but if you could take it from me that that's what appears there?---Okay.

Excuse me. Excuse me a moment. I've made an error. If I can just take you back to page 28, I've failed to draw your attention to the fact that there are two cash payments recorded against the date 28 September, in Mr Hawatt's Citigroup account with the numerous ending 5-3-7-9, each of them is for \$3,000. So that's what the statement of account says. Then we go to page 29 and what appear there are bank records indicating that there is a cash payment made in the first instance of \$3,000 at the Lakemba Post Shop, excuse me, on 28 September, at 1.52, but the next one, these might be out of chronological order, is at 12.19, the first one is Mortdale Franchise. Again it's for \$3,000. So the banking records support what is indicated there in the statement of account for the Citigroup account for Mr Hawatt. Can I take you then to page 30. This is a statement of account for an ANZ account held in the name of Najat Khettouch, K-h-e-t-t-o-u-c-h. Do I pronounce that correctly, Mr Maroun?---I don't know who is, who's Khettouch?

Thank you. The - - -

MR GRANT: I think he was asking you the question who is Khettouch.

MR BUCHANAN: Well, I'm sorry, I didn't hear that. You can assume that Najat is the name of Mrs Hawatt, and furthermore the address at the bottom of the statement of account is [REDACTED] and that's where Mr Hawatt lived, isn't it?---I know he lives in Oatley but I forgot the address.

Well, you can assume that it is the address of Mr and Mrs Hawatt. Then the entry in the ANZ statement of account for this account which ends in the numerals 5-1-5-5, is a deposit on 29 September, so this is the next day after those deposits by Mr Hawatt, this time of \$4,000. If I could take you then to page 34, and this is bank records in respect of that transaction. It's for 29 September, 2015, and it indicates, "Notes, \$100, 4,000." That is to say the \$4,000 payment was made using \$100 notes. If I can take you to some other records, page 11, these are records comprising the statement of account for Lonestar Constructions Pty Limited held by St George Bank. That was one of your companies?---Yes.

And page 12 shows a cheque on 17 September in the sum of \$10,000 that debited your account for that company and if we go over to page 13, we can see a cheque that's sideways on the page for the St George Bank. It's dated 17 September, 2015 and it's, "Pay cash, \$10,000 only," and the signature is your signature, if we can blow that up a bit?---Yeah, I can that.

Thank you. And it was provided to you in one hundred \$100 notes. We can see that from the branch record which is on the top left hand side of the page. Can I take you then to - sorry, so that's \$10,000 in \$100 notes that you withdrew on 17 September, 2015, which is before 24 September, 2015, when Mr Hawatt and Mr Azzi came to your house late in the evening after a council meeting. Excuse me. Can I go back to page 13. The banking

records that have been provided to the Commission in respect of this transaction include a piece of paper, or else the back of the cheque, which has the writing on it which appears at the top of the screen at the moment. Can you read the top two words? It looks like Asmahan Maroun.---That's my wife.

Thank you. Is that her writing or your writing?---It's not my writing.

10 Is it her writing?---No. I don't know. I don't think, it's her signature. I don't know about her writing.

So, we've seen, if we can go back to the page, we've seen that the cheque has got your signature on it. Is it possible that your wife took the cheque to the bank and withdrew \$10,000 using your cheque and came back and back you one hundred \$100 notes?---Yes. She does that all the time or most times.

20 Thank you. Can I take you to the next record, page 14. This is an extract of a statement of account held by the ANZ Banking Group for a company called Sydney Living Real Estate Pty Ltd, and you've told us that was one of your companies?---That's right.

30 And it indicates that on 22 September, a cash cheque was paid in the sum of \$8,000. The banking record that have been provided to the Commission support the fact that cash was paid – looking at just pages 17 and 18, they refer to a cash payment on 22 September, 2015. And then on page 19 there is a denomination breakdown of the withdrawal indicating that on that date \$100 notes were paid out in the total sum of \$8,000. So in the period 17 September to 22 September you obtained \$18,000 in cash in \$100 notes. Do you understand that?---Yes, I do understand.

Did you pay any of that to Michael Hawatt or Mr Azzi?---No.

40 And what the deposits or payments that I've taken you to in respect of Mr Hawatt's accounts show is that in the period 28 September to 29 September a total of \$19,400 was deposited by Mr Hawatt. We'll just work out for you a total of how much of that was in \$100 notes. A total of 124 \$100 notes were used in the deposits made by Mr Hawatt. Did he get any of that – sorry, I'll withdraw that. Is it likely as far as you know having regard to what you did that any of those \$100 notes that Mr Hawatt deposited on 28 and 29 September came from the \$100 notes that you had withdrawn before the meeting at your place on 24 September?---Definitely, definitely, definitely no.

Excuse me a moment. We'll just check our maths.

THE COMMISSIONER: I think it's 134.

MR BUCHANAN: 134. Thank you, Commissioner, I stand corrected. So it's a hundred and thirty-four \$100 notes had been deposited on 28 and 29 September in the deposits made by Mr Hawatt. That doesn't change your evidence I expect?---No.

Can I take you to page 145 of volume 17, please. We'll get it up on the screen for you. This is a copy on council files of a letter that your company, Jarek Holdings Pty Limited, was written by a staff member called Mine Kocak and it's dated 20 October, 2014. It refers back to the letter, the five  
10 page letter that we looked at earlier, the six page letter that we looked at earlier - - -?---Yes.

- - - dated 20 August, 2015 which Ms Kocak says where you were advised to submit further details before we can consider your application. She goes on to say, "We are unable to hold these development applications indefinitely. These applications cannot remain undetermined any longer as they adversely affect our ability to deal with development matters in a timely and efficient manner. Please be advised that should all of the above  
20 information not be received within 14 days of the date of this letter your development application will be refused on the grounds that insufficient information has been provided to allow us to make a proper and thorough assessment of the application." Do you remember being told that a letter like that had been received by your company or being otherwise aware of it?---I think that's the letter I was referring to before. It was a very short time and I remember I went to Bankstown and I saw Mine and that's when the architect and whoever are the consultant was involved to do, to do their job. They've done their job and I resubmitted. I remember that very well. I went and saw her personally at Bankstown Council.

30 Well, just two things. It's really neither here nor there but is it possible that it was Canterbury Council, given that's where the application had been lodged?---No.

It is possible that it was in early 2016 and not in 2015?---I don't remember the exact, I don't, I don't remember the exact date but I remember I went there and I met Mine for the first time. I don't believe I've met Mine at Canterbury Council.

40 Could your memory be mistaken in that regard?---Maybe.

I mean I'm just asking, why would you go to Bankstown Council when the file was all about an application lodged at Canterbury Council?---Because the staff of Canterbury Council, most of them moved to Bankstown.

But that wasn't until after 12 May, 2016.---I'm not too sure. As I said, I don't recall the dates but I remember I went and saw Mine definitely in Bankstown, not in Canterbury.

Okay. Can I ask you this, Mr Maroun. Do you have a memory of being made aware that your application was going to be refused unless information was provided to council?---Yes.

And did you do anything about that?---The architect did, yes.

What was done?---Whatever he was asked to do.

By whom?---By Mine.

10

How do you know that the architect did that or are you just telling us - - -?  
---Because he speaks - - -

- - - that was what you understood the system to be?---Because he speaks to me when there's something gets requested by council.

Yes.---And I remember, Mine was, was handling my file and I went and saw her, as I said, and the architect responded to her requests.

20

Can I take you to another page, it's the next page actually, 147 of volume 17, that might assist. It's an email message about a meeting being scheduled, and the heading is 538-546 Canterbury Road, Campsie, and 445 Canterbury Road, Campsie. The date is Wednesday, 21 October. So it's the day after this letter is dated that went to Jarek Holdings Pty Limited.  
---Which year is that?

30

2015, sir. And if I could just help you with some further information, the indication is that the meeting is fixed for a meeting room at City Planning, Canterbury, sorry, Cityplanning@canterbury.nsw.gov.au. So a pretty fair indication that the meeting was fixed to occur at Canterbury City Council. And the message was sent to, amongst other people, Mine Kocak, Spiro Stavis, and it gives three names for the meeting, George Anton, A-n-t-o-n - - -?---Yes, yes.

Was he a person who worked for you?---That's my lawyer.

Thank you.---Yeah.

40

Tony Jreige?---Yes.

Your planner?---My architect.

Your architect. Thank you. And Jimmy Maroun, yourself.---Yes, yes.

Do you remember going with those two colleagues of yours to see, I'm sorry, George Gouvatsos, Mine Kocak and Spiro Stavis or any of them - - -?---I remember - - -

- - - at around this time when you were being told this is going to be refused unless we're given a whole lot of information?---I can remember this is going to be refused for that meeting where George Anton was involved, George Anton was involved to, to do with RMS, as I said before, to respond back to the purchaser's solicitors. I don't remember other than Spiro at that meeting, about Gouvatsos or Mine, if they were there, but I do remember Spiro was there, George and Tony.

10 Do you remember new plans being lodged with council at around this time in October, 2015?---No, I don't.

New plans for 238 Canterbury Road?---For with one?

238 Canterbury Road.---538?

THE COMMISSIONER: 538.

MR BUCHANAN: I'm sorry, thank you. You're right.---No, not too sure.

20 Can I take you to page 148 of volume 17 and the first document at 148 is a council form that had been filled in in respect of amended or additional plans that were in respect of DA number 243/2015, that's the additional two storeys DA, you recall that number?---No, but anyway.

And the date on the receipt stamp is 23 October, 2015 and underneath that, through from page 149 through to 157 is a set of plans by Urban Link.  
---Yes.

30 And if I can, just to complete, in the hope that it completes the picture, take you to page 158, which is a letter dated 22 October, 2015 from Shady, S-h-a-d-y Chahine, C-h-a- - -?---He used to work for Urban, yes.

Right. It's C-h-a-h-i-n-e. This is in respect of the section 96 application because it's got DA 255/2014/A at the top and it says, "Please find attached three copies of updated architectural drawings," and then as well, if I can take you to page 159 of volume 17, there is a document that goes from page 159 through to 168 that has been prepared by Planning Ingenuity and is a 4.6 variation statement in respect of building height for 538-546 Canterbury Road. So, do you have a memory of all of these documents being provided  
40 around 21 to 23 October to council?---Everything, everything you've mentioned, and I've kind of seen, it gets done by the architect. He filled out that form and he submitted those plans. Planning, Planning, I can't pronounce their name, Ingenuity - - -

Yes, that's right.---Yeah. I think I know who they are. I've heard of them.

Were they hired by your architect?---More than likely.

To prepare the clause 4.6 variation statement?---He'll talk to me before he does that but yes. Like, that name rings a bell, Planning Ingenuity. In other words, Adam Burns stopped doing the job, maybe. That's when I started using someone else.

Tony Jreige?---No. Adam Burns was the town planner. Sorry, yeah, was the town planner, same as Planning Ingenuity. Tony Jreige is an architect and Shady works for Tony Jreige.

10 But these things would have been done on your instructions, wouldn't they? These documents would have been prepared and lodged with council because you directed that they be prepared and lodged with council.---Yes.

Alternatively, I just want to give you the opportunity of considering this way of looking at it. There's a subtle difference. You told your consultants, "Do whatever needs to be done to make sure that the DA isn't refused and that the documents that council is asking for are supplied."---Yes.

20 Is that possibly the way that you approached it?---Yes.

Is it possible that you weren't shown these documents in advance of them going in? They just simply were provided to council by your consultants because you required them to do whatever needed to be done.---Yeah, I won't see those documents. Those documents get, this form gets filled by the architect and those plans gets amended by the architect and get lodged by the architect.

30 But if the plans result in a reduction of lot yield, for example, or an increase in lot yield, is that something that you would expect to have been told about?---Yes.

By the architect?---By the architect.

40 Can I take you now to volume 15 of Exhibit 69, page 14. And this is just simply to provide you with information of what's before the Commission as to what was happening at the time. We go to page 14 of volume 15, we see a letter from a Gill Dawson at Canterbury City Council to the Department of Planning and Environment saying, "Council on 2 October, 2014 resolved that a planning proposal be prepared over land at 538-546 Canterbury Road, Campsie, amongst other properties, to increase the maximum permissible building height from 18 metres to 25 metres. These changes will be undertaken by way of amendments to the development map." That means the map attached that's part of the Local Environment Plan. "Council has now prepared a planning proposal for these amendments and is submitting this for a Gateway Determination, as is set out in the legislation. Attached to this letter is the planning proposal and relevant supporting documentation." And then from page 16 onwards is the planning proposal for 538, that is to say the proposal by council being submitted to the

department for the limit on what could be built at 538 being changed in the LEP from 18 metres to 25 metres. You understand that?---Yes.

Commissioner, I'm about to embark upon a body of material that really needs to be dealt with together and won't be dealt with, can't be dealt with in three minutes.

THE COMMISSIONER: All right. We'll break for lunch and resume at 2 o'clock.

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**LUNCHEON ADJOURNMENT**

**[12.59pm]**