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INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC
COMMISSIONER

PUBLIC HEARING

OPERATION DASHA

Reference: Operation E15/0078

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON FRIDAY 20 JULY, 2018

AT 9.30AM

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

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

MR BUCHANAN: No administrative matters this morning, Commissioner. Ms Mitchelmore is taking the first witness, Mr Sammut.

THE COMMISSIONER: Thank you. Mr Sammut. Now, do you take an oath or an affirmation?

MR SAMMUT: An affirmation.

THE COMMISSIONER: Thanks, Mr Moses. Please have a seat. Section 38 has been explained to you?---Yep.

10 I always emphasise that there is a very important exception to section 38, that is if you give false or misleading evidence to this public inquiry you could be prosecuted for an offence under the ICAC Act. It's a serious offence. Brings with it a maximum penalty of a term of imprisonment. Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by this witness during the course of the witness's evidence at this public inquiry are to be regarded as having been given or produced on objection and there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

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

30 THE COMMISSIONER: Ms Mitchelmore.

MS MITCHELMORE: Yes. Thank you, Commissioner. Can you state your full name for the Commission, please?---Full name is Andrew George Sammut.

And what is your current occupation, Mr Sammut?---I'm currently working as a consultant with the University of Technology.

40 And is it the case that you were previously employed by Canterbury-Bankstown City council, is that right?---That's correct and prior to that, Canterbury City Council.

Yes. And it's the case that you were employed by that council, either at the Canterbury City Council or then subsequently Canterbury-Bankstown Council, between 25 March, 1985 to 26 September, 2016. Is that right? ---That's correct, yep.

And, Mr Sammut, have you made a statement to the Commission investigators in relation to this matter?---Yes, I have.

Can I show you a copy of your statement. I have copies for the Commission as well. That's the statement that you made, Mr Sammut?---It is. Correct, yep.

And it's dated 24 June, 2018?---That's right.

10 Yes, Commissioner, I tender that statement.

THE COMMISSIONER: The statement of Andrew George Sammut, dated 24 June, 2018 will be Exhibit 159.

#EXH-159 - SAMMUT A STATEMENT 2018-06-24

20 MS MITCHELMORE: Thank you. Mr Sammut, between 2015 and 2016, is it the case that you were employed as the director of corporate services, is that right?---That's correct, yep.

And are you able to indicate what your responsibilities were in that position?---Yeah, I was the director responsible for managing a team of 11 different managers in the corporate and community services area. Corporate services including finance, HR, IT, customer services, and in the community area of course there was the aquatic centres, libraries, children's services and community development. So, a diverse portfolio.

30 And was that position, director of corporate services, a part of the executive of the council?---It was, yes.

And what other positions within the council were members of the executive.---There were only four people in the executive. It was the general manager and the three directors. So, it was the director of corporate services, the director of works, city works and director of planning.

City planning?---City planning, yep.

40 And the general manager, Mr Montague, is that right?---And the general manager, yep.

Mr Sammut, you've given evidence in your statement of a particular conversation that you can recall involving the general manager, Mr Montague.---Yep.

Without looking at your statement - - -?---Okay.

- - - if I can ask you just not to look at it, are you able to give the Commission your best recollection of that conversation?---Sure. All I can recall is that he did actually make the statement along the lines of, “Whatever they, they want, get it for them, yeah, get it for them, yeah.”

And are you able to say when that conversation occurred?---I can’t remember a specific date, no, but I can remember it was around 2015, 2016, it would have been in that period.

10 So it was when you held the position director of corporate services. Is that right?---That’s correct, yeah.

Are you able to recall the context in which it occurred?---It was a tumultuous time at council. There had been a lot of changes in the politics of the organisation, so there were a number of councillors asking for information and pushing particular barrows, trying to get certain things done.

20 Are you able to recall where the conversation took place?---I do recall that specifically ‘cause it was in an executive meeting. We have executive meetings on a regular basis to discuss the policy et cetera of the organisation, so - - -

So it occurred in an executive meeting?---That’s right, yeah.

30 Can you recall who else was there?---I know the general manager was there, I know Spiro was there, Spiro Stavis was there, and I can’t, I think it was the director of works, so it would have been Wayne Cooper at the time, but I can’t remember seeing his face, I’m just unsure of that one, yeah.

You’ve indicated that Mr Montague said a particular statement to you where he referred to, “these guys.” Did he identify precisely who he was talking about?---I can’t recall, because again there were so many issues going on at the time, I don’t remember, so - - -

40 Who did you understand at the time that he was talking about?---I think it could have been any one of the councillors that, that had been pressing for issues. As I said, there were a number of issues that were being raised by councillors concerning their constituents, multicultural issues, aquatic centre issues and so on, so I think it was in relation to any one of those issues, I’m not sure which one.

I see. And when you indicate that councillors were, a number of councillors were pushing for particular issues, are you able to identify any particular councillors at that time?---There were five or six of them, so no, I couldn’t say in relation to that specific comment, I couldn’t say, no.

But who were the five or six that you're thinking of?---Well, I'm thinking of Councillor, starts with Councillor Adler, Councillor Hawatt, no, actually, Councillor Azzi, Councillor Vasiliades, Councillor Karl Saleh was another one, he was pushing for multicultural issues at the time, so there were a number of different councillors that had issues, so could have been any one of them.

10 I think you indicated Councillor Hawatt and then were you meaning to include him in that group of persons?---No, actually, because he, he didn't often raise issues that, that needed follow-up at the executive level. He might have asked for assistance with helping a group get access to a sporting field or something of that kind, but nothing of, certainly not with me anyway, didn't raise a lot of issues with me.

All right.

THE COMMISSIONER: Can I just ask, you said Mr Hawatt didn't raise many issues that needed resolution at an executive level.---Yeah.

20 What did you mean by that?---Well, from a corporate services point of view, the issues that he would raise would be again, access to a sporting field or community group needed help getting access to something, but he didn't tend to raise a lot of corporate service issues - - -

Right.--- - - - that I needed to raise at the executive.

So that was from your perspective.---Yeah.

30 That when a councillor would raise an issue within your remit within council.---That's right, yeah.

And putting to one side Mr Hawatt, you mentioned Mr Adler, Mr Azzi, Mr Vasiliades.---Yeah.

And there was a final person?---Karl Saleh, Councillor Saleh. He would raise a lot of multicultural issues concerning particular people.

40 Right. So they were the ones who within your area of responsibility would be raising issues?---Yeah, definitely.

MS MITCHELMORE: And in terms of general executive discussion - - -? ---Ah hmm.

- - - that would occur at an executive meeting, was it those same councillors who would be discussed in that context or would there be additional councillors who might have issues with other areas at an executive level?

---Yeah, all councillors raised issues at different times, but certainly they would be the ones who were fairly proactive in terms of issues that were raised, yeah.

So when you say raised, raised in the context of executive meetings?---Yes. So they might have been just issues we needed to discuss about whether they were asking for particular reports or information that they were looking for.

10 And finally, Mr Sammut, can I just take you to paragraph 9 of your statement.---Ah hmm.

You've indicated that or you've referred there to a group that were then controlling council. Do you see that?---Ah hmm.

Who did you mean by when you refer to the group that were then controlling council?---That would include those people I've mentioned. There was a group that actually had I guess voted as a block, as a group. That included Councillor Hawatt, Councillor Azzi, Councillor Adler,
20 Councillor Saleh voted with them on occasion, Councillor Kebbe voted with them on a regular basis, Councillor Vasiliades and Councillor Nam automatically voted with them generally, generally speaking.

All right. Thank you, Commissioner, I have no further questions for Mr Sammut.

THE COMMISSIONER: And can I just ask, the comment that you can recall Mr Montague stating, and again it was roughly along the lines of,
30 "Those guys, whatever they want, get it for them."---Yeah.

Was that aimed at you or was it generally at everybody who was at this meeting?---I think it was aimed generally at everyone at the meeting. I mean it was really just a matter of, there was a number of issues being raised, a lot of pressure at the time to get things done and Jim just said, just, just get it for them, whatever they needed at the time.

All right. Mr Tyson?

40 MR TYSON: No questions, Commissioner.

THE COMMISSIONER: Mr Andronos?

MR ANDRONOS: Just a few, Commissioner. Mr Sammut, my name is Andronos. I appear for Mr Montague. Mr Sammut, yours was a significant portfolio of responsibilities when you were working at Canterbury and then Canterbury-Bankstown Council. That's correct, isn't it?---Ah hmm. Yes.

And governance fell within your responsibility?---It did, yeah.

Brad McPherson was your direct report?---He was one, yeah.

And so at director level you were responsible for the IHAP. Is that right?
---That's correct, yeah.

Yes. Now, you reported directly to the general manager?---That's right.

10 And the executive meetings that you attended with the general manager, they were weekly. Is that correct?---That's correct, yeah.

And at those meetings the executive could discuss with Mr Montague current matters for concern at that level.---Yeah.

And the directors were free to bring matters up?---That's right, yeah.

And the general manager could bring matters up?---Yeah.

20 And there was no restraint on any of the four of you raising any matters that you thought were relevant to the meeting and to the others?---That's correct.

Now, in your statement, I don't know if you have a copy of it with you - - -?
---Ah hmm.

30 - - - at paragraph 6 you say, "I'm not certain, but I believe a group of councillors had been pressing for reports and information and the exec were discussing responses. I can't recall which councillors were pressing for reports and information." Does that remain your best recollection of the immediate context of that meeting?---Yes, it is.

And when Mr Montague said words to the effect, I think there are a couple of slightly different wordings, but the substance is the same, but words to the effect, "Whatever these guys want, you give it to them," that was in the context of something which had been discussed at that meeting, wasn't it?
---Absolutely, yeah.

And so your best recollection is that Mr Montague was talking about getting information to councillors. Is that correct?---That's correct, yeah.

40 Yes. Now, you're familiar with the code of conduct that applied to council?---Yeah.

I wonder, Commissioner, whether Commission staff could bring to the screen volume 2, page 64. Mr Sammut, you're familiar with the code no doubt?---Yes, I am.

Could I just direct your attention to paragraph 7.3, which you'll see requires that, "Members of staff of council must provide full and timely information

to councillors and administrators sufficient to enable them to carry out their civic office functions and in accordance with council procedures.” Now, that’s not controversial, is it?---No, it’s not.

As a director, you were bound by clause 7.3?---I was, yes.

And all the other directors were also bound by clause 7.3?---Yes.

10 And you accept, don’t you, that it won’t always be obvious, when councillors ask for information, what is the purpose of their request?---Yes, that’s right.

Yes. And you also accept that it’s not the function of any council staff to second guess councillors on what their purpose is when they ask for information?---That’s correct.

20 Yes. And would it be appropriate, therefore, in your view that all council staff give councillors the information they want when they say they want it?---If it’s possible to give it to them in the time frames they’ve requested, yes.

Yes, but that’s a practical issue rather than an issue of entitlement, isn’t it? ---That’s correct.

Yes. Now, the general manager is also bound by the code, of course? You agree with that proposition?---Yes, yep.

30 I wonder if the Commission staff could take us back to page 61 of the same volume. You see at 6.3 at the bottom of the page, I see nothing controversial here. “The general manager is responsible for the efficient and effective operation of council’s organisation.” Your understanding is that this includes ensuring that council staff comply with their own obligations?---Absolutely, yep.

And that would include the obligation under clause 7.3, to provide full and timely information to councillors?---That is correct, yep.

Yes. Thank you, Commissioner. No more questions.

40 THE COMMISSIONER: Ms Bennett?

MS BENNETT: No questions, Commissioner.

THE COMMISSIONER: Mr Drewett?

MR DREWETT: No questions, Commissioner.

THE COMMISSIONER: Mr Pararajasingham?

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

I appear for Mr Stavis. You were just taken to the code of conduct. Just staying with that document, can I take you to page 62 of volume 2. If you just look at clause 6.4C, it reads, “Members of staff of council must carry out lawful directions given by any person having authority to give such directions.” In the case of you as a director, that was Mr Montague as the general manager, correct?---That’s correct, yep.

Just returning to this issue – that can be taken down. Just returning to this issue of these meetings, is it the case that the executive meetings, they were generally held weekly?---That’s true, yes.

And I think you’ve already said this, but the people who would attend those meetings were the directors and the GM?---That’s correct, yep.

And is it the case that at these meetings, all sorts of issues were discussed? ---Yes, that’s correct.

From kind of strategic issues to perhaps public events?---Yes.

The sale of public land?---Yep.

And this was a forum in which directors could raise any issues, correct? ---That is correct, yep.

But it is the case that the agenda at these executive meetings was set by the general manager?---That’s correct, yes.

And is it the case that quite often at these meetings, through the general manager, councillor issues were raised?---Yes, that’s true.

And by that I mean things that councillors were wanting or concerns that they had were expressed by the general manager at these meetings?---Or raised though the directors having received those calls directly themselves, yes.

Sure. So, those were two ways that councillor concerns or requests could be raised?---Correct.

Just one moment. And just following on from that, it’s the case that as these issues were raised, the purpose of these issues being raised at such meetings was to find solutions or answers to the particular concerns or queries that the councillors had, correct?---Correct.

Nothing further, Commissioner.

THE COMMISSIONER: Mr Moses?

MR MOSES: First of all in relation to one of your reports, Mr McPherson.-
--Yes.

I think Mr McPherson - - -

10 MR PARARAJASINGHAM: Sorry, Commissioner, I can't hear my
learned friend. It might just be me but - - -

MALE SPEAKER: No, it's not.

MR PARARAJASINGHAM: Apparently it's not.

THE COMMISSIONER: It doesn't really seem to be working.

20 MS MOSES: It's okay. I'll use my booming voice.

THE COMMISSIONER: Oh, good. If you can't hear, just - - -

MR PARARAJASINGHAM: Wave?

THE COMMISSIONER: Wave.

MR PARARAJASINGHAM: Sure.

30 MR MOSES: I can see you.

MR PARARAJASINGHAM: You can see me.

MR MOSES: So in 2015 and 2016 Mr McPherson reported to you?
---That's correct, yeah.

Did Mr McPherson ever raise with you a concern that council was making
decisions which were not in accordance with the planning recommendations
of staff?---Yes.

40 And can you recall what you did with that information?---I would usually
raise those issues with the general manager at one of those executive
meetings, just say, look, Mr Montague, Jim, are you aware that this is going
on, that this is actually happening.

And that is that recommendations of planning staff were not being followed
by council?---That's right, yeah.

And on those occasions can you recall what Mr Montague would say to you?---Mr Montague would just dismiss me and simply say, “Look, this is a planning matter, it’s not really something in your area, leave that, stay out of it.”

Okay. The second topic that I wanted just to raise with you related to the question of the code of conduct - - -?---Ah hmm.

10 - - - which you were taken to, and this is the document in volume 2 - - -?
---Ah hmm.

- - - of the ICAC brief. Could I just ask, Commissioner, if that could just be shown again, commencing at page 39, to the witness. This was the code of conduct. Perhaps we go to page 41, I apologise to the Commission staff, that was adopted on 22 August, 2013, that’s what page 41 tells us.---Ah hmm. Yeah.

20 And was this the code of conduct in place at the time of the council being elected that was in office in 2015-2015?---Yes, it was.

And you were responsible for, amongst other things, matters relating to corporate governance. Would that be correct?---That’s correct, yeah.

And was it part of your responsibility to have the councillors trained in relation to adherence with the code of conduct as council officials?
---Absolutely. And we did that as part of an induction program for all new councillors. They were all trained in the code of conduct. We had independent people do that on our behalf.

30 That was a two-day workshop that was conducted by SINC Solutions who are, as it were, experts in local government corporate governance-type issues?---Absolutely correct, yeah.

And to the best of your knowledge, all of the councillors of the newly-elected council, including Councillors Hawatt and Councillor Azzi - - -?
---Ah hmm.

- - - and Councillor Kebbe - - -?---Ah hmm.

40 - - - attended the training?---Absolutely.

And if I could just ask then if the Commission could bring up on the screen page 83. Part of that training – I apologise Commissioner. Just wait for that to come up. Part of that training related to fraud and corruption control policy of the council?---Yes.

And in particular the role and place of the Independent Commission Against Corruption in relation to matters pertaining to the reporting to and investigation of corrupt conduct?---Yeah, definitely.

Thank you. Yes, that can be taken off the screen, thank you. The third issue that I wanted to raise with you relates to the HR functions which you supervised - - -?---Yes.

10 - - - which you've referred to in paragraph 3. In relation to Mr Stavis - - -?
---Ah hmm.

- - - as you may know, and from your time with council, there was a controversy in relation to his employment as director of planning.---Yes, that's correct.

And your understanding at the time of the controversy was that Mr Stavis had been interviewed for the position of director (planning) - - -?---Ah
hmm.

20 - - and that he had been offered the role and then that had been withdrawn?
---Yes.

And then he was subsequently employed?---Yes.

30 Did Mr Montague seek your advice as the director of corporate services in charge of human resources in relation to this issue?---The general manager only sought my advice concerning HR matters on staff below contracted level. All the directors were appointed directly by him in consultation with an independent HR specialist and legal advice if he needed it, independent legal advice.

Was that the recruiter? The independent - - -?---The recruiter yeah. It was Judith Carpenter, was the recruiter that he used.

40 And what the Commission is looking at in terms of the future and recommendations that can be made in order to improve transparency and the way in which councils operate, and it may look at this. Is it your view that in relation to human resources matters involving all staff – of course not the director, of course, of corporate services, because there would be a conflict – that that should be the subject of consultation with the director of corporate services in order to have an extra pair of eyes on the process that is being followed?---I think it's important for consistency because the organisation has a, its own set of policies and they, they need to be consistently applied for all positions in the organisation. So, yes, I do believe that.

Thank you. And then there's the fourth and last topic that I wanted to raise with you, with the leave of the Commission, and that relates to the issue of

the reporting of concerns of corruption or misconduct within Canterbury Council. In 2015-2016, did anybody raise with you directly that there was a concern that either Councillors Hawatt, Azzi or other councillors were receiving bribes or money in relation to planning decisions?---Definitely not, no.

And had they raised that, what would you have done?---Well, it's my responsibility under the code and in terms of the ICAC legislation to report it. So - - -

10

Thank you. I have no further questions for the witness. Thank you, Commissioner.

THE COMMISSIONER: Thank you. Ms Mitchelmore, anything?

MS MITCHELMORE: No. I have no questions arising.

THE COMMISSIONER: Mr Andronos is leaping to his feet.

20

MR ANDRONOS: I wouldn't say leaping. Commissioner, before the witness is excused, what emerged in Mr Moses' examination is evidence of a conversation with Mr Montague which was not in Mr Sammut's statement and in respect of which I have no instructions. Now, I'm not saying that Mr Sammut necessarily needs to be – sorry, that Mr Sammut may not be excused. However, if I look at the standard directions at 17 is the equivalent of the Browne v Dunn direction to the extent that I don't have instructions yet and cannot get them before Mr Sammut leaves the witness box. I would simply seek to foreshadow that I may need to depart from that and invite the Commissioner to consider Mr Montague's contrary evidence, if there is – I don't know whether there is or if there is not. But that's a problem and it simply is a function of the way in which the order of examination goes. I'm not criticising anyone, it simply wasn't an issue which we could have been aware of prior to the evidence falling from the witness in the last few minutes.

30

MR MOSES: Commissioner, may I make a suggestion, if I may, through you. Mr Sammut, are you available if need be to come back at some point today to the Commission if my learned friend Mr Andronos wishes to ask you a question about that conversation?---Sure.

40

Thank you. Commissioner, subject to your views, to allow Mr Andronos to do that, because it is a fair point that he raises, that we could facilitate Mr Sammut coming back perhaps on an hour's notice. Is that convenient? ---Sure.

Thank you.

THE COMMISSIONER: You said you do consultancy work for the University of Technology?---UTS, yep.

Are you going there now or - - -?---No, I wasn't planning to go there now but - - -

10 All right. Before we leave this, what I was minded to do was really take up Mr Moses' suggestion and not excuse you, which may mean I may require you to come back and answer some further questions. May I ask Mr Andronos, can you get instructions on this today or - - -

MR ANDRONOS: We'll do our best. If we are unable to do so we'll let Mr Moses and Counsel Assisting know.

20 THE COMMISSIONER: All right. I don't want to inconvenience you with hanging around the city if you weren't planning to do that or it's inconvenient. If I don't excuse you and you go away and we require you this afternoon, is it doable to come back into the city?---Certainly. I'll stay in the city probably but that's okay.

All right. What I'll do is I won't excuse you. Mr Andronos, when we come to morning tea time or maybe in the interim, I don't know if your instructing solicitor can get somebody also to make some inquiries.

MR ANDRONOS: Yes.

THE COMMISSIONER: And if you can let me know as soon as possible whether I need to bring Mr Sammut back.

30 MR ANDRONOS: Yes. We'll do so as soon as possible and hopefully, Commissioner, you'll simply be able to excuse Mr Sammut in his absence.

THE COMMISSIONER: Yes. All right. Thank you for coming and giving evidence. You're not excused at the moment but you'll hear from us one way or the other.---Okay. Thank you very much.

THE WITNESS STOOD DOWN

[10.06am]

40

THE COMMISSIONER: Mr Grant, we weren't expecting you.

MR GRANT: I've done some juggling. My juggling skills have improved, Commissioner.

THE COMMISSIONER: Excellent.

MR BUCHANAN: If we could recall Mr Maroun, please.

THE COMMISSIONER: Yes. Mr Maroun, please.

THE COMMISSIONER: Thank you, Mr Maroun.---Thank you, Commissioner.

MR BUCHANAN: Mr Maroun, I'd like to show you, please, volume 17, page 188 in Exhibit 69. This is a message internally in Canterbury Council from Mr Stavis's assistant to him on Friday, 5 February, 2016 and the subject heading is your name and your mobile telephone number and the body of the message is "Request to speak with you urgently regarding the status of his application 538-546 Canterbury Road." Now, do you recall that particular endeavour to contact Mr Stavis?---I tried a few times. I don't remember the exact dates.

Sure. You indicated, sorry, it's recorded that you indicated to the staff member to whom you spoke that you wanted to speak with him urgently about the status of his application. Do you recall making an urgent request to speak to Mr Stavis?---Maybe, yes.

Was there something in particular that you were concerned about at the time? This is in early February, 2016.---I can't recall.

If we could go to volume 17, page 189, please. This again is going to be, Mr Maroun, an internal council document but I want to take you to it if I can. It's an email from Mr Stavis to Mr Gouvatsos, cc'ing in Mr Hargreaves. It is of 5 February, 2016 but it's, that message that we looked at earlier from Mr Stavis's assistant to him was at 11.56am. This is an email Mr Stavis sent at 12.52pm on the same day and the – excuse me a moment. I'd like you to assume that the message is about how your second DA for the addition of two storeys and the section 96 application in relation to the approved development be assessed. I'd like you to assume that there had previously been a decision by Mr Stavis that he communicated with staff that it was to be assessed by an external consultant.---The first time I've heard that.

I understand that. I'm not suggesting you were told that. But this email, subsequent to those instructions says, "George, change of instructions. Give this one back to Mine to prepare the report. Mine and I had just spoken about the changes previously and we both agree that the proposal is now supportable given the improvements made in relation to the existing approval as well," and then in bold Mr Stavis said, "Must go to March meeting." Was there a communication that you had with Mr Stavis on 5 February, 2016 between the time that you spoke to his staff and said that you urgently wanted to speak to him and him at 12.52pm saying to the staff that there'd been a change of instructions and that this application, section 86 application must go to the March meeting?---There's various reasons why I would say it's urgent. It could be for the bank, it could be for the

person that was selling the real estate. I just want to know when I can start, when I can get my approval, and sometimes, as I said previously, you try to ask question and they take days or weeks to get an answer. So, I probably used the word urgent for them to get back to me.

10 If you accept that previously Mr Stavis had told his staff that your DA was to be assessed by an external consultant, and that after he had been told that you wanted to speak to him urgently he changed his mind and also said that this must go to the March meeting, it would be reasonable to conclude that you had spoken to him and had impressed upon him the urgency of the matter as far as you were concerned and that it was for that reason that he said, "I'm changing my instructions. It won't be assessed externally, it'll be assessed internally and further, there's a deadline and the deadline in the March meeting of the CDC"?---I don't remember any of that topic, it's going external. That's what, what happened within council. I would get told between Stavis or general manager or the staff. I wouldn't know. So, my answer will be I'm not aware of it.

20 But you do tell us, do you, please tell me if I've got this wrong, that you did from time to time communicate to Mr Stavis your unhappiness with how long it was taking to assess your second DA?---Yes.

And that you wanted them to move a bit faster?---Yes.

And is that something that you also raised with Michael Hawatt and Pierre Azzi?---Yes. What can be done to speed up the process. That's always my, my aim or what I was trying to do.

30 Can I ask that we go to a recording, please, of a telephone conversation, LII 03086, recorded on 10 February, 2016, at 5.51pm, commencing at 5.51pm.

AUDIO RECORDING PLAYED

[10.16am]

MR BUCHANAN: Excuse me a moment. Commissioner, I tender the audio file and the transcript of that recording.

40 THE COMMISSIONER: The audio file and transcript of the recording LII 03086, recorded on 10 February, 2016, at 5.51pm, will be Exhibit 160.

#EXH-160 - TRANSCRIPT SESSION 03086

MR DREWETT: Commissioner? I wonder as the accuracy of the transcript. I might have heard it differently, but where - - -

THE COMMISSIONER: Is that the third entry for Mr Maroun?

MR DREWETT: Yes, where it says, yes, I think so. I think that might have been, should be properly attributed to my client, but I stand to be corrected on that.

THE COMMISSIONER: That was the note I made when listening to it.

MR BUCHANAN: That's our submission, Commissioner.

10

THE COMMISSIONER: Yes.

MR BUCHANAN: So we will change our copies of the transcript of the exhibit so that the word "Maroun", where it appears next to the words "do you have a meeting" is deleted, and instead the word "Hawatt" is substituted. And so in fact it was Mr Hawatt saying, "Good, good. Do you have a meeting?"

20 THE COMMISSIONER: Yes, that's accorded with my listening. And, Mr Drewett, you agree with that?

MR DREWETT: Yes, I agree with that.

THE COMMISSIONER: All right.

MR BUCHANAN: Excuse me a moment, Commissioner. Mr Maroun, you heard that exchange in the recording?---Yes, I did. I didn't understand it a hundred per cent.

30 We can play it again.---Yes, please.

AUDIO RECORDING PLAYED

[10.19am]

MR BUCHANAN: Does that enable you to - - -?---Yes.

- - - understand? You recognise your voice and that of Mr Hawatt?

---That's right, yes.

40

And in that conversation essentially Mr Hawatt was asking you when you rang, whether you wanted to meet up with him and you told him where you were and then arrangements were made for him to come over. Is that fair to say?---More than likely, yes.

On that occasion, on that day, was there a matter at Canterbury Council that concerned your business as far as you were aware?---I don't remember.

When your matters were before council, did you, was it your custom to want to talk to Mr Hawatt and/or Mr Azzi to just nut out what it was that would be done by them, if anything, in relation to your matter?---Sometimes, yes.

That's on – excuse me a moment. That's on 10 February, 2016, that phone call commenced at 5.51pm. Can I ask that we listen now to a recording made two days later on 12 February, 2016. LII 03196. The recording commenced at 1.22pm.

10

AUDIO RECORDING PLAYED

[10.22am]

MR BUCHANAN: I tender the audio file and transcript of that recording.

THE COMMISSIONER: The audio file and transcript of the recording LII 03196 recorded on 12 February, 2016 at 1.22pm will be Exhibit 161.

20

#EXH-161 – TRANSCRIPT SESSION 03196

MR BUCHANAN: Mr Maroun, you heard that recording being played?
---I've heard - - -

Would you like to hear it again?---Yes, please. I've heard Michael but I didn't understand the full wordings.

30

I think both of you might have been in a car at the time which probably contributed to the quality of the recording.---Maybe.

AUDIO RECORDING PLAYED

[10.23am]

MR BUCHANAN: Does that enable you to discern what it was that was being said in the conversation?---I've heard half an hour and St George and
- - -

40

Did you hear Mr Hawatt saying, "I'm just in Earlwood. I was wondering if you're free?" And you responding, "I'll be back in the," and then there's something said which can't be discerned, and then "Gym in about half an hour."---Yeah.

And Mr Hawatt saying, "Half an hour, yeah, I can do that 'cause I'm gonna see George so when I finish I'll come and," something that's inaudible, and then the word, "All right."---Yes.

And then the two of you just exchange goodbyes.---Yes.

In that conversation Mr Hawatt made the telephone call to you. Is that right?---Yes.

And he wanted to see you at your office or in your house or the gym.---Yes.

10 And he indicated that he could be there in half an hour. He went on to say “cause I’m gunna see George”. Did you understand who he was referring to when he said George?---I know a guy by the name of George. He used to, he’s a friend of his. I think he’s the guy that owns the other gym.

George Vasil?---George Vasil. Which he lives in the area I believe.

20 Now, the same day – excuse me a moment. If the witness could be shown Exhibit 148, please. Just on the screen will do. I think it won’t be able to be read. If we could look at the fourth entry in the call charge records for calls between your phone and Mr Montague’s phone. On the same day as that exchange between you and Mr Hawatt, Mr Hawatt indicating he was coming over to your place about 12.30pm, the records show that Mr Montague rang your phone at about 4.14pm and the line was open for 38 seconds. Do you have a recollection of Mr Hawatt coming over in about February, 2016 and that same afternoon Mr Montague ringing you?---That may well be the case but I don’t recall the dates and time and - - -

Was it sometimes the case that Mr Hawatt would indicate that you were going to be contacted by Mr Montague?---Maybe, yes.

30 Do you know what could have been the subject of discussion, what stage things were at at this stage about 12 February, 2016 with your DA and the section 96 application or the planning proposal?---No.

All you can tell us I suppose is that on the information we’ve given you your planning proposal, sorry, your DA and the section 96 application were before council and hadn’t been determined?---I think so, yeah. When I say I think so, because the dates, I haven’t got the dates to be sure of.

40 You will recall that I showed you an email from, sorry, sent by Mr Stavis to his staff in which he indicated that your DA and section 96 application had to go to the March meeting. You know don’t you that your DA and section 96 application did go to the March meeting of the Canterbury IHAP and was considered there and then it went to the March meeting of the City Development Committee of council?---Yeah, I do remember it went to IHAP then the council but again the dates I’m not, like I don’t remember.

So these calls by Mr Hawatt to come over to your place, call from Mr Montague is about a month, roughly, before your DA and section 96 application were considered by the IHAP and then shortly afterwards by the

City Development Committee. Was there discussion between you and Mr Hawatt on 12 February about what was happening or what needed to be done in respect of the recommendation being made by the director of city planning to the IHAP and then to the City Development Committee?---We always used to talk about what's happening. Again, the dates, I don't remember the dates.

10 For Mr Montague to ring you, though, it is likely to have been fairly important, would that be fair to say?---Yes.

And Mr Montague wasn't a person you drank with or anything like that, was he?---Once.

Once. Oh, you did? Okay.---At that fundraising which I mentioned.

Oh, yes, you told us. Thank you. So did Mr Montague ring you to give you information, to reassure you that your development application and section 96 application would be considered at the March meetings of the IHAP and the City Development Committee?---I don't recall.

20 Now that I've given you that information, though, about what is happening at particular times, can you recall what Mr Montague talked to you about when he rang you?---No.

Can we play, please, LII 03480, recorded on 17 February, 2016, commencing at 12.03pm.

30 **AUDIO RECORDING PLAYED** **[10.32am]**

MR BUCHANAN: I tender the audio file and transcript of that recording.

THE COMMISSIONER: The audio file and transcript of recording LII 03480, recorded on 17 February, 2016, at 12.03pm, will be Exhibit 162.

#EXH-162 – TRANSCRIPT SESSION 03480

40 MR BUCHANAN: Mr Maroun, you heard that recording being played, is that right?---Yes.

And it's a bit clearer than the last one.---That's right.

Do you need it to be played again?---No.

That was a call initiated by Mr Hawatt but you responded to him ringing by indicating that you would be at the gym at a particular time. If he had time, you and he could train together.---Yes.

Do you recall that particular occasion? Did he actually come to the gym?
---Don't remember.

10 In fairness to you, can I take you to an SMS that Mr Hawatt sent you that day. Page 305 of volume 17. And if we could look, please, at number 105, item 105 on that page. This is a text message that Mr Hawatt sent to you the same day as that recording, 17 February, 2016, but at 4.06pm. And the message reads, "Can we make it around 5.00pm instead?" So you would have received that, I take it?---Yes.

But I assume that doesn't assist you in recalling whether Mr Hawatt nevertheless came to see you on that occasion?---No, it doesn't.

20 Could we play, please, recording LII 03515, recorded on 17 February, 2016 at 5.06pm.

AUDIO RECORDING PLAYED

[10.36am]

MR BUCHANAN: I tender the audio file and transcript of that recording.

THE COMMISSIONER: The audio file and transcript of the recording LII 03515, recorded on 17 February, 2016 at 5.06pm will be Exhibit 163.

30

#EXH-163 - TRANSCRIPT SESSION 03515

MR BUCHANAN: Thank you, Commissioner. It sounds from that recording that, it being the same day and you having had those other communications with Mr Hawatt, that it's likely he did in fact turn up to the gym at some stage that evening, in the early evening of 17 February, 2016. Would you agree?---Maybe.

40 Excuse me a moment, Mr Maroun. I've just gone and lost a piece of paper and I just need to find it. On 17 February did you give any cash to Mr Hawatt?---No.

I'd like to take you to some financial records if I can, please. Excuse me a moment. If we could go to Exhibit 149, page 92, please. This is a statement of an account in the name of Mr Hawatt held at the NAB. The last four digits of the account number are 9-9-9-5 and the highlighted entry is on 17 February, 2016. It indicates a credit for cash in the sum \$2,500. If I can

take you then to page 94. Can I just pause for a moment, please. There's a deposit slip for 17 February, 2016. The account name is Michael Hawatt. The sum of money is \$2,500. The last four digits of the account number are 9-9-9-5 and the data on the reverse of the deposit slip indicates that the deposit was made in \$100 notes. Can I take you to – excuse me a moment. Can I take you to page 95 and if we can look at the data at the bottom left-hand corner of the bunch of data at the top of the page, there's a time there of 2.17pm. That obviously is before the time when Mr Hawatt came over, assuming he did come over having regard to the calls that we've heard and the SMS that we've seen for 17 February, would that be a fair conclusion to draw?---Yes.

Can I take you, please, to page 96. This is a statement of account from – I withdraw that. I'll take you to another matter. If you could just give me a moment, please. Excuse me a moment. Right. At the very bottom of page 96, I apologise, the bank is identified, National Australia Bank Limited. The account name is Ozsecure Homeloans Pty Ltd. The account number ends in the numerals 2-2-1-8 and the highlighted item is a cash deposit on 17 February, 2016 for \$4,800. The page 97 there's data again the bottom left-hand corner in the blue-purple ink indicating 14.17, that is to say 2.17pm on this day, 17 February was when the deposit was made and if we go to the deposit slip page 98 and 99 the name of the account is Ozsecure Homeloans Pty Ltd. The date is 17 February, 2016. The last four digits of the account are 2-2-1-8. The amount is \$4,800 and on the reverse of the deposit slip it's indicated that the 4,800 were paid into the account in \$100 notes. Continuing on to page 100 I go to an account held in the name of Mr Hawatt by the ANZ Bank with the last four digits of the account number being 6-1-7-9. Turning over to page 101 there's a highlighted entry against the date 23 February, 2016 indicating that a payment is made in the sum of \$1,500. And if we go to page 106 the bank trace indicates that the \$1,500 was deposited in \$100 notes. And the account number is confirmed over the page at 107 where the same cash deposit is referred to again but the account number appears in the middle column and the last four digits are 6-1-7-9 where the cursor is at the moment on the screen. Turning to page 108. Excuse me a moment. Now, page 108 is a statement of account with a payment advice attached to it and attached to the statement of account payment advice is a receipt from the Hurstville Westfield Australia Post agency and the identity of the account holder is partially obscured at the top of the page but is apparent towards the bottom. If we can just go down to the bottom on the screen where, thank you, where the cursor is now on the payment advice the names Michael Hawatt and Martha D. Robson appear and it is for rates payable to Gold Coast City Council. The payment slip or machine generated receipt indicates that \$500 in cash was tendered on 23 February, 2016 and that's confirmed in handwriting on the payment advice portion of the document on the bottom right-hand side. Page 109 is a statement of account for Mr Pierre Azzi held with the Commonwealth Bank. The account number ends in the numerals 1-7-9-2. Over to page 110 and the highlighted entry is for 25 February, 2016, it indicates a payment was

made to a MasterCard and in the sum of \$700. The trace on that payment is on page 111 and unless I've missed it, it doesn't give us the breakdown of the cash paid but it does confirm that it was cash paid. The account number appears where the cursor is at the moment, 1-7-9-2, the amount where the cursor is is \$700 and next to it is on the left-hand side the word, "Cash," and the posting date and the value dates are both 25 February, 2016 where the cursor is on the screen. Can I take you to page 112 where we have a statement of account for an account styled Mrs N Azzi. The account number ends in the four numerals 7-1-8-0. Over the page to page 113, the highlighted entry is for 25 February, 2016. It indicates a cash deposit at an ATM in Roselands and the amount is \$500. There is, at page 114, a bank trace in respect of that deposit, the amount at the top of the page is \$500 – I'm sorry, this is page 114. In the middle it's \$500, then as we go down towards the left-hand bottom side the account name is Norima, N-o-r-i-m-a, Azzi, the last four numerals of the account are 7-1-8-0, the transaction amount is \$500 and it's identified as being in cash. The posting date and value date are both 25 February, 2016, and the description of the transaction over on the right-hand column, fourth item from the bottom is, "Cash deposit." But unless I've missed it there is no breakdown of the deposit by denomination. Mr Maroun, we've established that certainly as to some of those deposits that were made certainly in respect of accounts for Mr Hawatt where the deposit was made on 17 February, that it would be highly unlikely that the deposit was made by reason of a payment that you gave him on 17 February itself, given that the meet-up at the gym was in the early evening and we all know what bank business hours are, but there had been a meeting where you had agreed to meet up at your gym with Mr Maroun on 12 February. I apologise. Where you were meeting with Mr Hawatt on 12 February, 2016. When we listened to the recording, Exhibit 161, that was a meetup that was arranged at 1.22pm and, accordingly, all of the cash deposits of which there is evidence between pages 92 and 114 in Exhibit 149 physically could have been cash that was provided to Mr Hawatt and/or Mr Azzi on the occasion when you met Mr Hawatt on 12 February, 2016. Do you understand that?
---Yes.

Did you provide cash to Mr Hawatt or Mr Azzi on 12 February, 2016?---No.

Did you ever provide cash to Mr Hawatt in the expectation that he would pass some of it on to Mr Azzi?---No.

So far as concerns that availability of cash to you to pass on to them, can we go back to page 87 on Exhibit 149. This is a statement of the account held in your name by the NAB, where the account number ends in the numerals 2-7-2-6 and the highlighted entry on this statement is of a withdrawal by you of \$10,000 on 11 February, 2016, the day before, obviously, the meetup on 12 February and there is a bank trace which incorporates in it the withdrawal slip. I do apologise. Page 88 of Exhibit 149 and if we, if it's possible to enlarge what's on the screen, you can see in the withdrawal slip

in the middle of the page, your signature appears?---Yes, I can see the signature.

Thank you. And the indication from the withdrawal slip in the denominations column is that the \$10,000 was provided to you in \$50 notes, and just to confirm, the date is 11 February and the last few digits of the account are 2-7-2-6. Accordingly, as at that occasion, 11 February, you had \$10,000 in \$50 notes available to you. If we go over the page in this exhibit to page 89, it's a statement of an account held at the St George Bank by
10 Lone Star Constructions Pty Ltd with the account number ending in the numerals 7-8-0-4 and if we go over to page 90, there's a copy of an entry in that statement of account against the date of 12 February of a cash withdrawal of \$10,000. Going over to page 91, there is a branch record there for the St George Bank for an account with the last four numerals being 7-8-0-4. It is described as a cash withdrawal. Your signature appears on it, is that right?---Yes.

And the description of the disbursement of the cash to you by the bank was that it was two hundred \$50 notes. Accordingly it would seem, certainly on
20 the banking records that we've looked at, that if it is the case that, as the records appear to indicate, Mr Hawatt and Mr Azzi – or, if it be the case, their respective spouses – deposited \$10,500 in cash, you had available to you at the time you met with Mr Hawatt and/or Mr Azzi on 12 February, 2016, \$20,000. Do you understand that?---Yes.

Did you give any of that cash that you had withdrawn on those two occasions to Mr Hawatt or Mr Azzi on say 12 February?---No.

Can I take you, please, to volume 17 of Exhibit 69, page 194. This is a copy
30 of a letter from council files dated 19 February, 2016 that is addressed to Jarek Holdings Pty Limited. It's just a one page letter and it serves the purpose of informing you that your DA for the two additional storeys would be before the IHAP on 29 February, 2016. Do you recall being informed that the IHAP would be considering your DA on 29 February, 2016?
---Maybe.

You do accept that it does appear that there is a pattern whereby the council would send you notice of when your DAs were being considered by the
40 IHAP?---Yes.

And that is dated 19 February, 2016. Did you know before you received that letter from say Councillor Azzi or Councillor Hawatt what the date was of the meeting of the IHAP that would be considering your DA?---No. I don't recall.

Can we play a recording, please, that is LII 03676 recorded on 19 February, 2016 at 3.38pm.

AUDIO RECORDING PLAYED

[11.03am]

MR BUCHANAN: I might replay that in a moment but first of all I'll tender the recording. I tender the audio file and the transcript of that recording, Commissioner.

10 THE COMMISSIONER: The audio file and transcript of the recording LII 03676 recorded on 19 February, 2016 at 3.38pm will be Exhibit 163.

MR BUCHANAN: 164.

THE COMMISSIONER: Yes. Sorry. Exhibit 164.

#EXH-164 – TRANSCRIPT SESSION 03676

20 MR BUCHANAN: Mr Maroun, I apologise for the quality of that recording. Would you like me to play it again?---Yes, please.

AUDIO RECORDING PLAYED

[11.05am]

MR BUCHANAN: You heard that recording being played, Mr Maroun?
---Yes.

30 Did you recognise your voice and Mr Hawatt's voice?---Yes.

What I'm going to do is just read what I suggest to you is what was said, and I'm reading from the transcript. There is something in audible that you say, and then you say, "Hello, hello." Mr Hawatt says, "Hi, Jimmy." You say something inaudible and then, "Whenever you are ready." Mr Hawatt says, "Are you at the gym?" You say, "Yeah." And then there's something that's inaudible. Mr Hawatt says, "Okay, I'll see you in, in the next, next hour, within the hour. All right." You say, "Okay," and then something that's inaudible. And then Mr Hawatt says something which is inaudible.
40 ---What's inaudible means?

Oh, I do apologise. Unable to be, unable to be worked out what it is that has been said. Something's been said but it's not possible for the person listening, or I suggest us, as we sit here, to work out what it is that's been said.---Well, I tried to listen to it twice to if anything had been said in a different language.

Ah.---That wasn't the case.

Right.---All I heard, are you at the gym, I'll see you in whenever.

Yes. And that's what I suggest is what the conversation was, just simply an arrangement that was made between the two of you, Mr Hawatt calling in the first instance and by the very reason of him calling, you simply say, "Whenever you are ready," possible come over whenever you are ready.
---Yes.

10 Now, I'd like to take you – and the date of that was 19 February, 2016, if you could just bear that date in mind, I'll be coming back to it.---Yeah.

Can we play another recording, please, LII 04290, recorded on 26 February, 2016, commencing at 3 o'clock, 3.00pm.

AUDIO RECORDING PLAYED

[11.08am]

20 MR BUCHANAN: I tender the audio file and transcript of that recording.

THE COMMISSIONER: The audio file and transcript of recording LII 04290 recorded on 26 February, 2016 at 3.00pm will be Exhibit 165.

#EXH-165 – TRANSCRIPT SESSION 04290

30 MR BUCHANAN: Now, you heard that conversation satisfactorily?---Yes.

And you recognised your voice and Mr Hawatt's voice?---Yes.

So what we've just listened to is recordings where it's indicated that Mr Hawatt is coming over to see you, and this is on 19 February and 26 February. What I want to take you to now is some more banking records. Excuse me a moment, please. In the first instance, can I take you to page 117 and 118. This is not correctly described as banking records. What it is, is some material indicating the payment by Mr Hawatt of cash to a furniture supplier in Ashmore, Queensland. This is a document signed by a Jason
40 Jeffery, J-e-f-f-e-r-y. It hasn't got a date on it and it's simply, "To whom it may concern, you have requested copy of quotes/receipts and invoicing related to furnishing unit 3201 and copies of all records detailing how payment was made for furnishings supplied for unit 3201. Please see attached the following," and then there are four items indicated, "Copy of original quote, copy of the original invoice, copy of the receipt of the first payment made in cash on 7 February, 2016, copy of the receipt of the second payment made in cash, 27 February, 2016." It goes on to say, "Both payments were made in cash to me, Jason Jeffery, directly on dates above. I

met at the unit in question on the first day to go through the quote and accepted the job and first payment was made. Second payment was made on installation of furniture in unit once again. Please also note, although original invoice was for \$26,400, \$400 was deducted on date of install due to a difference in quality of some of the items.” The next page, page 118, is a copy of a receipt from a firm called Simply Furnished, that’s F-u-r-n-i-s-h-e-d Pty Ltd. The payment date is recorded as 27 February, 2012. The data shows a payment on 7 February of \$14,000 and then on 27 February of \$14,000. Now, I pause here, Commissioner, to provide some evidence which is in addition to the material on the subject of this payment on 27 February, 2016 in Exhibit 149. It comprises, it’s a bundle of documents which are covered by a statement made to the Commission by Jason Raymond Jeffery. It’s dated 18 October, 2016 and he indicates, as he explains in the statement that he commenced making, the statement on that date, that is to say 18 October, 2016, he says, “For reasons I am not sure of, the statement was not signed.” Then on 29 March, 2018, he received a call asking him to prepare, if he was prepared to sign this draft statement which had been commenced in October, 2016. He said he was and so this statement is then dated 4 July, 2018. The statement comprises six pages and there are attached to it a number of additional pages which have got headings as to whether they’re Exhibit 1 to the statement, Exhibit 2 to the statement, or Exhibit 3 to the statement. If I can pass it up. I’ll do something to make sure that you understand what’s in the document in a moment, Mr Maroun.---Thank you.

Commissioner – I’m sorry.

MR GRANT: One thing I’m having difficulty with is at page 118 and I’m not sure it’s properly explained yet, is that the invoice activity shows us 27 February, 2012 that there’s a \$14,000 payment not 27 February, 2016. I’m assuming that’s just simply a mistake made by - - -

MR BUCHANAN: It’s a mistake on my part. I have as usual misspoken.

MR GRANT: So I’m assuming it’s a mistake in the invoice but I’m waiting to find out.

THE COMMISSIONER: It might be dealt with in their statement at paragraph 20.

MR GRANT: Well, it may very well be.

THE COMMISSIONER: But anyway, do you wish to tender this?

MR BUCHANAN: Yes, I do, Commissioner, as one exhibit I respectfully suggest.

THE COMMISSIONER: The statement of Jason Raymond Jeffery signed on 4 July, 2018 and with the various exhibits to the statement shall be Exhibit 166.

#EXH-166 – JEFFERY J STATEMENT 2016-10-18

10 MR BUCHANAN: We'll just inquire as to how big we can – what I propose to do, although we can bring it up on the screen and I do ask that we do that, I'll read the document out so that the witness knows what's in it. I'll leave aside the formal parts on page 1 and go directly to page 2, paragraph 5. Mr Jeffery says this. "I work for a business known as Simply Furnished which is a family business that specialises in furniture and appliance packages for investment properties. Many of our clients own apartments in resorts situated on the Gold Coast. Our main form of advertising is through our website." He then gives a website address. "We pay for Google advertising words so that when people search for furniture packages using Google our website appears in their Google search results. 20 We receive inquiries through our website. People are able to input their requirements and we then respond to their inquiry with five furniture package options. We did not have an established referral arrangement with the Azzura Greens Resort."

Now, Commissioner, I pause there to remind myself that the Azzura Greens Resort was the place where Mr Hawatt and Ms Robson purchased a unit which has been referred to as being in the Gold Coast, Queensland, using funds that were provided if you recall it through Mr Zreika's Sterling Legal's trust account and the witnesses Abdullah Osman and Alae Osman 30 have given evidence speaking to the funds that went into that account. Those funds then went out to pay for the residential unit at Azzura Greens Resort.

Mr Jeffery continues. "I received an email from Michael Hawatt via our website on 31 January, 2016 with a quote generated from our website form. The email came from the email address [REDACTED]. I replied to the email the same day stating that I would get back to him with some further information. I subsequently corresponded with Mr Hawatt between 1 and 22 February, 2016 regarding his furniture package 40 requirements and subsequent purchase. I received an email from Mr Hawatt on 3 February, 2016, stating that he would be at the apartment on 7 February, 2016 and would call and make arrangements to meet me there on that date. I met Mr Hawatt at his investment unit at unit 3201 Azzura Greens, Hope Island on 7 February, 2016, at which time I provided him with a quote for fully furnishing the apartment. Mr Hawatt wanted the lounge to be black leather. I made the changes on the quote and changed it from version 2 to version 3. The cost of the quote changed from \$26,600 plus GST to \$24,000 plus GST. I then signed the final quote. The total cost

of the furniture package, \$24,000 plus GST of \$2,400 was \$26,400. I gave Mr Hawatt the signed quote. I do not have a copy of the quote. Investigator Browning provided me with a copy of the final quote, version 3. I can say that the document is a copy of the quote I provided to Mr Hawatt. The signature on page 1 and the handwriting on the quote was written by me.” And, Commissioner, if we go to page – the page on the screen at the moment is headed Exhibit 1 and that is the quote that the witness is referring to. The rest of the exhibit comprises the documents that were attached the quote and it’s basically a catalogue with an amendment made to it in respect of the black leather lounge. Commissioner, my copy and the copy that you might have, Commissioner, I’m not sure, is not paginated as to the exhibits. In any event, the copy that has been entered into the records of the Commission for this exhibit is not paginated.

THE COMMISSIONER: Mine is.

MR BUCHANAN: I think it’s because I’m Senior Counsel and you’re the Commissioner, you get the paginated version. Could we have leave to substitute a paginated version which will otherwise be exactly the same for Exhibit 166 in due course?

THE COMMISSIONER: Yes.

MR BUCHANAN: Thank you. I apologise for the delay, Mr Maroun. Mr Jeffery goes on in his statement to say this, “At the time I attended the unit, Mr Hawatt had a friend with him. I cannot recall his name but he said he was the developer of Azzura Green. Mr Hawatt’s friend told me words to the effect that he had built the resort, that he put furniture in those apartments all the time and that he thought I could do a better price than what I had quoted. I recall either he or Mr Hawatt stating that they would be travelling to Byron Bay together for lunch or dinner. Whilst at the apartment on 7 February, 2016, Mr Hawatt paid me a deposit for the furniture package he had purchased. He paid me \$12,000 in cash. I recall Mr Hawatt stating that the money was in another room and when he left I heard a noise similar to a zipper on luggage being opened. Mr Hawatt returned with one bundle of \$50 notes wrapped in a rubber band. Mr Hawatt counted the money in front of me. Our business generally receives payment by credit card or direct deposit. We sometimes receive cash payments, although this is generally from overseas investors. The required deposit is normally 50 per cent with the remainder to be paid upon installation of the furniture package. I do not recall Mr Hawatt telling me in advance that he would be paying cash for his deposit although it is possible he mentioned it in a phone call. Upon receiving Mr Hawatt’s deposit, both he and I signed his copy of the invoice, confirming the payment had been received. I do not have a copy of a signed invoice. After this, I went back to the officer and generated a receipt for the deposit payment on your system. Investigator Browning provided me with a copy of the signed invoice, confirming payment of \$12,000 in cash. I can say that the invoice

is a copy of the document I provided to Mr Hawatt. The handwriting on the document is my writing. It is my signature next to my name. I recognise the signature next to Mr Hawatt's name as the one he wrote." And I'm told it's page 20 we're seeing on the screen now. Commissioner, you'll recall the issue of signatures came up yesterday, and if I could just ask you to note the signature that appears there against the name, Michael Hawatt, I'll be just referring to a couple of those during the evidence in today and succeeding days so that we can gain an appreciation of what Mr Hawatt's signature looked like.

10

"During either email correspondence or a telephone call, Mr Hawatt told me that he was having difficulty opening attachments I sent him by email. For this reason I did not email him the receipt, I gave it to him on the next occasion I met with him. The installation of the furniture package at unit 3201 Azzura Greens was completed by 27 February, 2016. I met Mr Hawatt at unit 3201 Azzura Greens on 27 February, 2016 at which time he inspected the furniture. Due to a slight difference to some quoted items I agreed to deduct \$400 from the total price. Whilst at the inspection of unit 3201 Azzura Greens on 27 February, 2016, Mr Hawatt paid me the balance of the furniture package purchase, being \$14,000 in cash. I think he may have said words to the effect, 'I'll grab the money from my suitcase.' He again left the room to retrieve the money from another room. I also recall on this occasion hearing a zipper opening before he returned to me carrying one bundle of \$50 notes wrapped in a rubber band. Upon receiving Mr Hawatt's final payment, both he and I signed his copy of the invoice, confirming the payment had been received. I do not have a copy of the signed invoice. I generated a receipt for the payment I received from Mr Hawatt for the balance of the agreed purchase of the furniture package. Investigator Browning provided me with a copy of the signed invoice, confirming payment of \$14,000 in cash. I can say that the document is a copy of the invoice I provided to Mr Hawatt. The handwriting on the document is my writing. It is my signature next to my name. I recognise the signature under my name as the one written by Mr Hawatt."

20

30

Could we go to page 21, please, of the Exhibit 166, and the document is on the screen and again a signature appears just above the dotted line, Commissioner, for the payment advice, and you can see the handwritten annotation, "Paid 14,000 (final balance.) 27 Feb. Jason Jeffery."

40

Return to the statement. "Investigator Browning asked me what I did with the two cash payments I received from Mr Hawatt. I recall that on both occasions I took the cash back to my office and entered it in the ledger. I believe I then used most of the cash to pay the supplier for the furniture we supplied to Mr Hawatt. Most of the money that was left over would have been banked in our Commonwealth Bank account."

Mr Maroun, what I would just ask you to consider is that on my calculations, \$14,000 in \$50 notes would be 280 \$50 notes.

THE COMMISSIONER: Mr Buchanan, can I just pause? Mr Grant, page 188, sorry, 118 of Exhibit 149 which you raised - - -

MR GRANT: Yes.

THE COMMISSIONER: - - - that seems to be some kind of typo.

10 MR GRANT: Correct, and that's, as, Commissioner, you rightly pointed out, that's dealt with in paragraph 20 of the statement.

MR BUCHANAN: So as to – I withdraw that. You can see that the evidence then is that on 27 February Mr Hawatt appears to have paid \$14,000 in \$50 notes to a furniture supplier, that is after the dates of 19 February and 26 February when arrangements were made as we've heard in the telephone calls, Exhibit 164 and 165, for Mr Hawatt to come over to your office or gym. Was any of that money that Mr Hawatt paid to that furniture supplier given to him by you?---No.

20 Can I just take you before – I note the time, Commissioner. There's just one matter if I can before we depart this issue. If I can take you back to Exhibit 149, the collection of financial records. Excuse me a moment. On 26 February, I'm looking at page 115, on a bank statement for an account that you held with the NAB where the account number ended in the numerals 2-7-2-6 a withdrawal of \$10,000 is recorded. If we go over to page 116 there's a bank trace which includes in it a copy of the withdrawal slip. You can see if we enlarge the withdrawal slip that the date is 26 February, 2016 and the account number ends in the numerals 2-7-2-6. Your signature appears in the middle of it.---Yes.

30 And the denominations of the notes in which the cash that you withdrew was disbursed to you was entirely in \$50 notes. You see that. Excuse me. Thank you. In the bank trace the machine-generated data, in the top left-hand corner of page 116 there's a time of the withdrawal that is indicated and that's 11.56am. The telephone call where Mr Hawatt arranged to come and see you on the same day was at 3.00pm. So you would have had available to you at the time Mr Hawatt came to your office/gym on 26 February \$10,000 in \$50 notes. You'd accept that?---Maybe.

40 When you say maybe, what would be, what could be possibly wrong about that?---Probably went to the TAB or gave someone some money.

\$10,000?---Yes.

You would have got rid of it in three hours or so, four hours would you?
---I'm not saying 10,000. I might spend two or 3,000.

You didn't give any of that money to Mr Hawatt when you saw him on 26 February?---No.

That would be a convenient time, Commissioner

MR ANDRONOS: Commissioner, before we rise, I have no objection to Mr Sammut being excused and I'm indebted to the Commission and to Mr Moses for giving us that opportunity to take instructions.

10 THE COMMISSIONER: All right. Mr Sammut is now excused from giving evidence and can you communicate?

MR MOSES: Yes, Commissioner, that will be communicated.

THE WITNESS [MR SAMMUT] EXCUSED [11.34am]

20 THE COMMISSIONER: Thank you. All right. We'll have the morning tea break and if we can be back here just before 5 to 12.00. Thanks.

SHORT ADJOURNMENT [11.34am]

MR STEWART: Madam Commissioner, if I can interrupt.

THE COMMISSIONER: Oh, yes.

30 MR STEWART: My name's Stewart, S-t-e-w-a-r-t, initial A. I seek leave to appear for Mr Azzi.

THE COMMISSIONER: Yes, Mr Stewart. You are authorised to appear for Mr Azzi.

MR STEWART: Thank you, Commissioner.

MR BUCHANAN: If we could recall Mr Maroun, please.

40 THE COMMISSIONER: Yes, Mr Maroun. I'm sorry.

MR BUCHANAN: Mr Maroun, if I can show you please, pages from the business papers for the IHAP meeting which occurred on 29 February, 2016 at volume 17 of Exhibit 69, pages in the first instance 199 and then we'll go to 198. And what is on the screen at the moment, Mr Maroun, is summaries of what the director of city planning recommended in respect of your DA to add two storeys to the approved development at 538-546 Canterbury Road, and I'll take you in a moment to the summary of what he said in respect of

the section 69 application. So far as concerned the construction of two additional storeys DA, there was a recommendation in the last dot point, a bit over halfway down the page, that read, “The director (city planning) has recommended the application be approved, subject to conditions.” Now, when were you first aware that Spiro Stavis would recommend approval of your second DA?---I don’t recall.

What were the circumstances in which you became aware that he would recommend approval?---I can’t answer this question. I don’t recall.

10

You must have been pleased when you did discover that that was what was being recommended?---Absolutely.

You don’t recall where you were and when and what you were doing when you found out?---No.

20

On the same page, the third dot point, it reads, “A condition of consent has also been imposed to reduce the apparent bulk of the building on the proposed top two floors to enable a more proportional corner element reducing the overall bulk of the building. This is in line with recent discussions between the applicant, our officers and director (city planning.)” Can I ask you about that passage in Mr Stavis’s report. Do you recall discussions that occurred recently before 29 February, 2016, or say the - - -? ---I don’t know the exact date or month - - -

30

Yes.--- - - - but I remember, and I did say that before, that I met with Spiro Stavis and he requested what needs to be done in order to get the acceptable level, which is as far as I remember, the setbacks, one additional lift, some extra car spaces and delete two units from the approved DA.

40

And if I can take you then to page 198 of volume 17, that is a summary of the report by Mr Stavis to the IHAP about the section 96 application in respect of the approved development and the last dot point reads, “The director (city planning) has recommended the application be approved, subject to conditions.” You would have learned that Mr Stavis was recommending approval of both applications at the same – I withdraw that. The time when you found out that Mr Stavis was recommending approval of the section 96 application would have been the time that you learned that he was recommending approval of the DA itself for the additional two storeys. That’s likely, isn’t it?---I thought they were doing them both together.

Yes.---Because that’s part of what he asked for at the initial meeting I had with him between him, the architect, I don’t know if it’s him or someone else, between the staff, the architect and the town planner, they’ve discussed that will they do both in one go or to do the extra two floors or the, or do the, what needs to be done for the existing.

Was it Mr Hawatt or Mr Azzi who informed you of what Mr Stavis's recommendation would be?---I don't remember.

There has to be a possibility doesn't there that - - -?---Yes, yes.

Did you go to the IHAP meeting?---I remember I went to one IHAP meeting but I don't recall which one.

10 Was it a meeting which considered two applications of yours that you went to?---I don't think so.

Thinking of the meeting with you didn't attend, would you have arranged for one of your consultants to be there?---Maybe. Either the architect or the town planner. More than likely the architect.

If we could go to page 272 of volume 17, please. This is part of the minutes of the meeting of the City – I withdraw that. This is part of the business papers for a City Development Committee meeting that was held on 10
20 March but what it includes is the report of the IHAP that met on 29 February, 2016 and that starts at about the middle of page 272 and goes over the page. The report sets out that, looking at the second paragraph of the report itself, "The panel is of the opinion the application should be refused." It goes on to say, "The issue of concern to the panel is the clause 4.6 variation submitted by the applicant." And if I can summarise it myself without reading out the technicalities, the panel expressed the view that they were of the opinion that the submission didn't meet the requirements of clause 4.6. Do you remember learning about that or being told about that? ---As I said before, I've heard of 4.6.

30 I'm sorry, my mistake. I'll reframe my question. Do you remember hearing that the IHAP that considered your DA for two additional storeys and the section 96 application to modify the approved development refused, I'm sorry, recommended refusal of the DA?---I don't recall that.

You don't remember that?---No.

The likelihood is you would have been told what the IHAP decided don't you think?---More than likely, yes.

40 But you don't remember being told that the IHAP recommended refusal? ---No.

Going over to page 273. The business papers for the City Development Committee meeting set out the IHAP recommendation and I'll read it out. "That development application DA 243/2115 be refused on the following grounds." And the first ground is "The clause 4.6 variation submission has not adequately addressed and demonstrated that compliance with the 18 metre height limit is unreasonable or unnecessary in the circumstances and

that there are sufficient environmental planning grounds to justify contravention of the 18 metre height limit.” It had another related ground as well that I won’t bother reading out. Did anyone tell you that your clause 4.6 submission had not been accepted, the clause 4.6 submission made in respect of the DA for the two additional storeys?---I don’t recall but again more than likely, yes.

10 Now, can I take you just back to part of the panel’s reasoning, on page 272, as to why the clause 4.6 variation should be not accepted and looking at the third paragraph from the bottom of that page, “The relevant development standard is the 18 metre height. The council resolution to increase the height to 25 metres is at this stage no more than a resolution given that there is no Gateway Determination and no public exhibition of a planning proposal,” and then they pointed out that they made the same point in their report on another, a different, someone else’s application. Do you recall being told that the council resolution to have a planning proposal put forward to increase the height limit from 18 metres to 25 metres was not being taken into account by the IHAP when considering your DA?---I don't recall that, no.

20

So, that meeting date of the IHAP, we’ve seen was 29 February, 2016. Obviously now that you know, if you weren’t aware at that time as well, you would have been upset at learning that the recommendation of the IHAP was that your - - -

MR MOSES: Sounds like a good ad.

THE COMMISSIONER: Sorry.

30 MR MOSES: We could all do with that advice.

MR BUCHANAN: Sorry, Mr Maroun. You weren’t being unhappy to learn that the recommendation going forward to the City Development Committee in respect of your DA was to refuse it?---Yes.

And can you remember taking that up with Michael Hawatt and Pierre Azzi or talking to them about it?---No.

40 Did they tell you that the IHAP recommendation was to refuse the DA?---I don't remember.

Would you have asked or relied on Mr Hawatt or Mr Azzi or both of them to ensure that even though the recommendation was to refuse your DA, nevertheless the City Development Committee approved it?---Personally, I need to believe that director of town planning, he’s the one that’s hounding it, so whatever he says to me, that’s his job or than Michael or Pierre. He knows more than them about what, what I believe about codes and reasons

and explanation and so on. So, to, to answer your question, if, if anything like this, I speak to Spiro.

And can I tell you that I'm not suggesting you didn't try to speak to Spiro but I'm just taking a step aside and asking, you had been dealing with Mr Hawatt and Mr Azzi for quite some time on a regular basis to consider issues that arose as they arose with your DA and your section 96 application and to try and progress your DA and your section 96 application, hadn't you?---Yes.

10

So, the likelihood is - - -?---Maybe, yes.

- - - that you would have discussed it with them or they would have discussed it with you?---Maybe.

They didn't indicate to you, "Oh, don't worry about the refusal, we'll take care of it"?---I don't remember.

20

Can I take you to page 243 of this volume. You said that you thought Spiro Stavits was the person who looked after this sort of detail, and what this document shows is that on 3 March, 2016 you apparently contacted Mr Stavits' staff and left a message for Spiro Stavits with your telephone number indicating that you wanted to speak to him about 538-546 Canterbury Road?---Yes.

That doesn't come to you as any surprise. Is that fair to say?---No.

30

Right. Can I ask if we can play, please, LII 04805, recorded on 3 March, 2016, commencing at 12.53pm.

AUDIO RECORDING PLAYED

[12.21pm]

MR BUCHANAN: I tender the audio file and transcript of that recording.

THE COMMISSIONER: The audio file and transcript of recording LII 04805, recorded on 3 March, 2016 at 12.53pm will be Exhibit 167.

40

#EXH-167 - TRANSCRIPT SESSION 04805

MR BUCHANAN: Mr Maroun, you heard that recording being played?
---Yes.

Was it sufficiently clear for you or would you like to hear it again?
---No, it was clear to me.

You recognised your voice and Mr Hawatt's voice?---Yes.

And although you were having difficulty communicating with Mr Hawatt during that telephone call, as you heard he told you that he was driving a car at the time, one can clearly hear you asking him, "Do you have the agenda for next Thursday meeting?" Do you remember hearing your voice saying that?---Yes.

10 And the Thursday after 3 March, 2016 was 10 March, 2016, and that was the date at which the City Development Committee was scheduled to meet. ---Ah hmm.

So it appeared that by 3 March, 2016 at 12.52pm, you had a belief or understood that your site the subject of this DA for two additional storeys would be considered by the City Development Committee at its meeting on 10 March, 2016. Do you accept that?---Sorry, repeat that again?

20 Yes, sure. Because we know that the next Thursday that you referred to was 10 March, and because we know that 10 March was when the City Development Committee was scheduled to meet - - -?---Yes.

- - - and did in fact meet, it follows from the fact that you asked Mr Hawatt on 3 March that you at that time understood that your DA and section 96 application were going to be going before the City Development Committee on the next Thursday for consideration.---No.

30 Why not?---Because I was asking him if my, if my project going to be on the agenda at the next meeting.

And that's because you used the words "can you find out if the car wash is going before you guys to be approved"?---That's right. Before councillors.

But nevertheless it indicates that you understood that that was the next council meeting and you thought that there was a chance that it was going to go before that meeting. Is that fair to say?---There might be a chance, yes.

40 Now, by saying to be approved, does that mean that you understood that the application when it was considered by the council or the City Development Committee would be approved?---Yes, of course.

And what was it that gave you to believe that it would be approved when it went before the council or the City Development Committee?---Because if the director of town planning recommended it to be approved I thought he's the highest.

I'm sorry, you thought?---That the director of town planning, which is Spiro Stavis, recommended for approval, there's no one higher than him to approve or disapprove. He's the director of town planning.

You've seen the evidence however that the Independent Hearing Assessment Panel for council had recommended refusal. You've seen that evidence today haven't you?---Yes.

10 And are you telling us you didn't have any idea that the IHAP had recommended refusal?---I don't remember.

The likelihood is you have been told isn't it?---That's right.

And did you have some reason when you spoke to Mr Hawatt on 3 March for believing that the IHAP recommendation would not be followed?---I don't know. I'm kind of lost who is, who is, who is charge of who when it comes to determination of such - - -

20 Such matters?---I led to believe before that council can overrule IHAP. Now I believe IHAP overrules the council so that's not my field and to follow this up I've got a consultant that's getting paid to do their job which in this case the town planners or the architects. They'll understand that more than I do because that's their job every day.

30 And I appreciate that I have asked you this before but I'm going to ask it again. So far as concerns the relationship between the IHAP and the City Development Committee or council, did you rely upon Mr Hawatt and/or Mr Azzi to look after any conflict between what the director of city planning might recommend and what the IHAP might recommend to the City Development Committee?---No. All I used to, all I used to say is do your job and be fair. I never asked for anything outside what, what they should do, like they weren't clean with their fellow councillors. And as I said before, from time to time they put me on to either the general manager or, or the director of town planning because they can't answer what the report may reflect to as in 4.6 and so on.

40 You hadn't as far as you were concerned in Councillors Azzi and Hawatt a couple of men who were acting as your consultants to look after the council end of the dealings that were necessary to get the approvals to start the development of an eight-storey building on 538 Canterbury Road?---Are you talking about the town planner and the architect?

No, sir. I'll ask the question a different way. You had this relationship, didn't you, with Councillors Azzi and Hawatt?---Yes.

At this time?---Yes.

And it was a relationship where you were dealing with them when it came to the council side of progressing your applications in order to get approval to build an eight storey building at 538 Canterbury Road, weren't you?
---Yes.

Now, is it fair to say that you were relying on them to ensure that the applications were approved at the council end of the equation as against the drafting of plans and submitting them to council?---I can't tell them what to do. If they think - - -

10

No, but – sorry.---If they think it can't be approved, I can't tell them, "No, it should be approved." I said and I'll say it again, I won't do their job to, to be clean and to be good to their fellow councillors, not to go against their fellow councillors and try to be whatever, heroes, if you want to call it.

But is the relationship that you had with those two men at this time in March 2016 one whereby they were acting as your consultants to progress your applications through council?---I wouldn't say that.

20

To give you advice, to give you information, to discuss with you what needs to be done or what can't be done, to do all that needs to be done, as they understand it, in order to ensure that your applications were approved?
---Sorry, I wouldn't, I wouldn't say they're my consultants because as I said, if I need something they'll refer me to the right channels, which is the director of town planning mainly and sometimes the general manager. So, I wouldn't call them my consultants.

30

But another channel was the decision making on the part of the City Development Committee itself, wasn't it?---I don't know if they're on the committee or not.

Well, you knew that it was council at the end of the day that made the decision.---Whether council or the councillors or council staff, I'm not too sure until now.

40

THE COMMISSIONER: I thought you said that you, either yesterday or the day before, my recollection was that you gave evidence that whenever one of your DAs was before council, including the City Development Committee, you would attend the meeting, and if you attended the meeting you would see that councillors Hawatt and Azzi were members of that committee and indeed were passing resolutions and voting.---Yeah. I don't know which one which, about the committee or about the council meeting. I do attend a lot of meetings at councils but I don't know which one which. To me, it's a council meeting. Apart from IHAP, everything for me is the same.

Yes. And the reason why you would attend, we'll put it broadly, a council meeting, is that one of your DAs was going to be considered by that meeting and you wanted to be there to hear what was being said.---Yes.

So, if it was the council sitting as the City Development Committee, you would attend that meeting.---More than likely, yes.

And you would have seen that Councillors Hawatt and Azzi were members of that committee?---Yes.

10

And you would see them putting forward resolutions and voting on those resolutions?---Yes.

MR BUCHANAN: And if we could go back to the transcript of the telephone conversation on 3 March, 2016 at 12.52pm, Exhibit 167, first page. A bit over halfway down, what's recorded there is that you asked Mr Hawatt, "Can you find out if the carwash is going before you guys to be approved?" That's what you said to Mr Hawatt at that time. So, you've plainly understood at that time that Mr Azzi and Mr Hawatt and the other

20

---Absolutely, yep.

And further you understood that it would be a meeting involving those guys on the next Thursday evening, which, as I've informed you, is 10 March, 2016. You knew all of that at the time you were speaking to Councillor Hawatt on 3 March, 2016.---I wasn't too sure if my application was going to be dealt with at that meeting, that's why I was asking him if my application's going to be on the agenda.

30

But that's not what I'm putting to you now. What I'm putting to you is that your words that you used to Mr Hawatt on 3 March clearly indicate an understanding by you that the application to be approved had to, to use your words, "go before you guys" at a meeting the next Thursday, 10 March. ---What I, what I meant by "You guys" is the councillors.

Yes, exactly.---Not like specific Michael or Pierre or whoever.

I fully accept that.---Yeah.

40

Can we listen to another recording please. This is LII 04836, recorded also on 3 March, 2016 but at 6.47pm. The previous conversation that we listened to was at 12.53pm.

AUDIO RECORDING PLAYED

[12.37pm]

MR BUCHANAN: I tender the audio file and transcript of that recording.

THE COMMISSIONER: The audio file and transcript of the recording LII 04836 recorded on 3 March, 2016 at 6.47pm will be Exhibit 168.

#EXH-168 - TRANSCRIPT SESSION 04836

10 MR BUCHANAN: Mr Maroun, you heard that recording?---Yes.

Did you recognise the voices of yourself and Mr Hawatt?---Yes.

You heard yourself say to Mr Hawatt the car wash went before IHAP on Monday and Mr Hawatt told you that we will get the reports Friday?---Yes.

So it would appear that on that occasion you were aware that the applications had been considered by the IHAP and you were aware of when they had been considered by the IHAP?---Yes.

20 The preceding Monday. Now, you said to him – I withdraw that. You were asking him about the reports, is that right, or to find out what had happened at the IHAP meeting?---Yes, I think so.

You say, if we go to page 2 of the transcript in the middle of the page, “Okay, if you don’t get it would it be possible to ask for it?” So that indicates that you were interested in what the report said?---Yes.

And that would be logical - - -?---Absolutely.

30 - - -because it’s a consideration of your application?---Yeah.

Now, can I ask you about the part of the conversation which is recorded on page 3 of the transcript and following where Mr Hawatt talks to you about some units, one assumes residential units in Port Macquarie DA approved. Did you understand that Mr Hawatt was trying to interest you in investing in some newly developed units?---Yes. A newly what, sorry?

Newly constructed.---No, to be constructed.

40 To be constructed. Thank you.---Yes.

And was that the first time that Mr Hawatt had run past you a proposed development with a view to interesting you in investment in it?---I think so, yeah.

Can you think of any other occasion, whether it’s before or after, that Mr Hawatt tried to interest you in investing in a proposed development or a

development?---No, but I remember Port Macquarie well. It seems that I heard it.

He contacted you more than once about it. I think that's right to say isn't it?---Maybe.

Did you invest in that proposed development?---No.

10 Now, going to the fourth page of the transcript you responded to what Mr Hawatt said to you about that by saying "Give me something about it and after training we'll talk about it." Sorry, you asked him, "Are you coming to the gym tomorrow?" And then when he said yes you said, "Give me something about it and after training we'll talk about it." Is that an example of the fact that you could train with Mr Hawatt at the gym and whilst you were there with him have a conversation or indeed a meeting about whatever either of you wished to talk about?---Yeah, "Give me something about it", probably I meant back then to, if he's got any plans or conditions to go through them and go through it together with him. That may well be the case.

20

Now, can we go, please, to Exhibit 92 which is an audio file and transcript of a telephone conversation between Mr Azzi and Mr Hawatt, not involving you, Mr Maroun, not involving you in terms of who was on the line, recorded on 3 March, 2016 commencing at 7.22.

AUDIO RECORDING PLAYED

[12.45pm]

30 MR BUCHANAN: Mr Maroun, did you recognise the voices of Mr Azzi and Mr Hawatt?---Yes.

Now, I appreciate that for about half of what you heard they were talking about a development called Harrison's and George Vasil and things that didn't concern your property at 538 and didn't concern you, but did you hear them talk about – I'm looking at the transcript page 4, this is the translation from the Arabic, "There is that one, what's its name, for the," in English, "business paper," in Arabic, "for what's his name," in English, "Maroun." And then after your name was mentioned, there was discussion about trying to find out what the result was from the IHAP meeting. Did you understand that as being what they were talking about to each other? 40 ---Very well, yep.

And it sounded as if they wanted to find out and Mr Azzi proposed that Spiro be asked to find out what had happened at the IHAP meeting. Did you hear him say that?---Yes.

And Mr Hawatt said that he had told you that the business paper came the next day.---Will come the next day.

Yes, thank you. Now, was there an arrangement where you were going to meet Mr Hawatt on 4 March, 2016 at all? That's the day after that call and the day after you had run him asking about the IHAP meeting and - - -?
---Well, I heard on the phone that on Friday if the report is ready he's going to come and see me.

10 Okay. Thank you. Now, Commissioner, this is probably an appropriate time as any for me to tender a fresh document so that I can speak to it. What I am tendering is a set of call charge records for contact between Jimmy Maroun and Pierre Azzi. It operates in the same way as the call charge records in Exhibit 147 between Mr Hawatt and Mr Maroun, that is to say the person initiating the call, or rather the person in whose name the phone is registered that initiates the calls in the second and third column, and then in the fifth column under the heading Phone User and Phone Service appears the name of the person in whose name the receiving
20 telephone is registered and the phone number, then appears start date, that is to say the date on which the call was initiated, and then ignoring the column which is in faded ink, that's the start time, the start time adjusted for daylight savings time, and then duration of the telephone line between the two calls being open. There is also a Caller Location column but until or unless I advise otherwise, there's no intention to rely on the data in that column at this stage. This, as I said in respect of Exhibit 147, the data in this table is also incomplete, and this can be in particular seen in respect of the very call that we just – I withdraw that. No, I misspoke. Thank you. It can be seen in respect of the bottom of the second page where there appears
30 to be a series of calls initiated on Mr Maroun's phone and no corresponding returned call or call by Mr Azzi in response, and our submission will be that there are most likely calls that were made by Mr Azzi to Mr Maroun during that period which commenced on 1 December, 2015, concludes on 10 April, 2016, but which the data for which hasn't been obtained from the service providers.

THE COMMISSIONER: All right. The call charge records for contact between Jimmy Maroun and Pierre Azzi for the period 18 July, 2013 to 10 April, 2016 will be Exhibit 169.

40

#EXH-169 - CALL CHARGE RECORD FOR CONTACT BETWEEN JIMMY MAROUN AND PIERRE AZZI COVERING THE PERIOD 18/07/2013 TO 10/04/2016

MR BUCHANAN: And a particular gap appears on page 2, Commissioner, and items 83 and 84. You can see that the entry number 83 is a call by Mr Azzi to Mr Maroun on 1 January, 2015 and that item 84 is a call from Mr

Maroun to Mr Azzi on 1 December, 2015, and given the pattern of communications in the rest of the exhibit, given the evidence of this witness about the reasonable regularity of the communications involving Mr Hawatt and Mr Azzi, it would seem that that is a gap for which there should be records, and I am informed that attempts have been made from the service provider to obtain those records but they haven't been forthcoming, certainly not to this point. I'm sorry, I'm told I need to add to that, the service providers have said there is no record but that's, we can conclude that is probably not reflective of what was actually the case. Thank you,
10 Commissioner. Can we go to another recording, please. This is LII 04889, recorded on 4 March, 2016 commencing at 1.01pm.

AUDIO RECORDING PLAYED

[12.58pm]

MR BUCHANAN: I tender the audio file and transcript of that recording.

20 THE COMMISSIONER: The audio file and transcript of the recording LII 04889, recorded on 4 March, 2016 at 1.01pm will be Exhibit 170.

#EXH-170 - TRANSCRIPT SESSION 04889

MR BUCHANAN: 4 March, 2016 was the Friday, which according to what we've heard Mr Hawatt told you, the day after he would have got the business papers.---Yes.

30 Which would have informed him what the result was of the IHAP meeting's consideration of your DA and would have informed him that the recommendation was for refusal. You knew that the councillors were going to be considering your application in the next week. This was a critical time for you I want to suggest around 4 March, 2016 when Mr Hawatt made that call to you and there was an arrangement made on Mr Hawatt's request for him to come over and talk with you or to be in the same place as you. It was a critical time for you wasn't it?---Why critical?

40 Well, because you're in between a situation where the IHAP which makes the recommendation to the City Development Committee has recommended to the committee refuse your DA but the time when the councillors are going to consider that and consider your DA - - -?---Is the following Thursday.

- - - is in the succeeding week?---Yeah.

So it's a critical time for you isn't it?---Yes.

It sounds as if Mr Hawatt made an arrangement to come over to see you with your agreement on 4 March. Do you remember - - -

THE COMMISSIONER: Excuse me.

MR BUCHANAN: Do you remember seeing him at your - - -

MR MOSES: It is 1 o'clock, Commissioner.

10 MR BUCHANAN: I'm sorry.

THE COMMISSIONER: No, no, no, no, keep on going.

MR BUCHANAN: Do you remember seeing him at your office/gym on 4 March, 2016?---I don't remember the exact date but I used to see him often as you can see, yeah. Maybe.

Commissioner, it's going to take me some five minutes at least to go through the next piece of evidence before resuming the rest of the evidence and it might be convenient to take the luncheon adjournment.

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THE COMMISSIONER: All right. Excuse me. All right. We'll adjourn for the luncheon break and we'll be back at 2.00pm.

LUNCHEON ADJOURNMENT

[1.02pm]