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08/10/2018

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INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC
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PUBLIC HEARING

OPERATION DASHA

Reference: Operation E15/0078

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 8 OCTOBER, 2018

AT 12.00PM

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

THE COMMISSIONER: Good morning, everybody, or good afternoon. This is the continuation of the public inquiry. Before Mr Stavis resumes his evidence this morning, I'm calling upon Ms Mitchelmore.

MS MITCHELMORE: Yes. Commissioner, I have the honour of announcing I've been appointed Senior Counsel for the state of New South Wales, taking rank and precedence after my learned friend Simon Buchen of Senior Counsel.

10 THE COMMISSIONER: Ms Mitchelmore, I was thrilled to see your appointment as Senior Counsel announced last Friday. The Sydney Morning Herald described you as a rising star at the bar. This has been demonstrated by your tremendous work for ICAC over the years and in particular in Operation Dasha. You're well known as a go-to barrister for administrative, environment planning and criminal law, expertise that has been demonstrated in this public hearing, plus you can add and subtract. You epitomise the ethical polite barrister. You're generous with your time, not only in assisting and providing advice to colleagues, and I have benefitted from that over the years, but you've contributed to the profession
20 in other ways and we are very thankful that, as treasurer, you've kept the Bar Association in the black. So on behalf of everybody in the hearing room, congratulations.

MS MITCHELMORE: Thank you, Commissioner.

THE COMMISSIONER: Now, Mr Buchanan, any administrative matters before - - -

30 MR BUCHANAN: Only to signal, Commissioner, to accommodate Mr Pararajasingham's other engagement that he told you about previously. My application would be to rise a touch before 4 o'clock this afternoon, and if I overlook that I hope Mr Pararajasingham gives me a dig in the ribs.

THE COMMISSIONER: That's fine and will that also be the situation on Wednesday?

MR PARARAJASINGHAM: Yes, Commissioner.

40 THE COMMISSIONER: All right.

MR PARARAJASINGHAM: I thank my friend. Thank you, Commissioner.

THE COMMISSIONER: All right. Mr Stavis. And, Mr Stavis, you take an oath?

MR STAVIS: Yes.

THE COMMISSIONER: Mr Buchanan.

MR BUCHANAN: Thank you, Commissioner. Mr Stavis, on the last occasion, we played you a recording of a telephone conversation between you and Mr Hawatt that took place on the 23 May, 2016, commencing at 5.26pm. The recording was admitted as Exhibit 227, and if the witness
10 could be provided, please, with a copy of that exhibit, the transcript of that exhibit and there's a copy on the screen as well. Mr Stavis, I think I told you that the recording was an extract of the conversation and the extract commences on page 1 of the transcript at Exhibit 227 with Mr Hawatt asking, "Hey, listen, just a, just a quickie, how did you go? This is very important." And you responded, "Yeah, yeah, look, it, it, it's, he didn't commit but the vibe I got was very good." Do you see that?---Yes, sir.

And that was a reference to a meeting that you had with Mr Stewart, the acting general manager of the amalgamated council. Is that right?
20 ---I believe so, yes.

And you went on after Mr Hawatt said, "Oh, excellent, excellent," to say, "So I'm expecting that it'll be, you know, so an announcement soon, but he was talking as if I had the job, you know, so." Mr Hawatt then said, "Oh, fantastic, fantastic." You went on to explain that you'd spent an hour and a half with Mr Stewart. What was, "The job," of which you were speaking?
---I, I, I think it was in reference to the reorganisation or restructure of, of the planning as a result of the amalgamation.

30 Yes.---Yeah. So it was in reference - - -

But what was the job that you - - -?---Yeah.

- - - were speaking of?---Director of planning of some sort.

Well, you seemed to think it was an actual definite job, you used the definite article, "The," "The job," and you were expecting an announcement soon. So what was the job that you were expecting an announcement for?
---Director of planning I would imagine that was.

40 Director of planning.---Yeah.

And what was the title of the position you held at that stage, when you were talking to Mr Stewart at that stage, when you were talking to Mr Hawatt, what was the title of your position?---It was director of planning.

And so it was an expectation or anticipation on your part that you would be confirmed in that position?---Yes, but I think it was, there were two parts to the position, from the best of my recollection.

Yes. What were they?---I believe one was director of development of some sort, I forgot the terminology, I'm sorry, and the other one was a director but had to do with policy and so forth which dealt with rezonings and the like.

10 Now, can I take you then to the next page. Can I ask you about that part of the long paragraph at the top of the page, which is, I think it's line 6 going into line 7. "Never question my loyalty because from where I was with Jim with all that baggage, we, we ended up with a very good working relationship." Do you see that?---Yes, sir.

And then you went on to say, "You and I have, have no baggage so I expect to have an even better working relationship with you." And he liked that. Do you see that?---Yes, sir.

20 And that's you recounting to Mr Hawatt what had been exchanged between you and Mr Stewart at that point. Is that right?---Yes.

And what was your reference to baggage, so far as your relationship with Mr Montague was concerned, a reference to?---I believe that was in reference to the circumstances behind my employment.

And so are you talking about the troubles, as it were, the dispute between Mr Montague and Mr Azzi and Mr Hawatt, over your employment?
---I believe so, yes.

30 Did Mr Montague ever indicate to you that he was not satisfied that you were an appropriate person to be appointed director of city planning?
---Um - - -

MR ANDRONOS: Objection. Objection. My friend should identify a time period. It's not clear to me whether we're talking about the end of 2014 or May 2016 or some other period.

40 MR BUCHANAN: Well, the word I used I think was "ever", so it means the entire time that you had dealings with Mr Montague.

THE COMMISSIONER: I'll allow it on that basis.

MR ANDRONOS: Yes. No, I'm indebted to my friend for clarifying.

THE WITNESS: Yes.

MR BUCHANAN: When did he indicate that?---To the best of my recollection, I believe it was very early. I think it was after I started, after I

was appointed, but very early in my tenure. I can't give you an exact date, I'm sorry, but - - -

And when you say started, do you mean actually started work as director of city planning?---Yes. Yes.

So that would have been about March, perhaps April, 2015?---I believe so. Yes.

10 And what were the circumstances in which Mr Montague told you this?
---Well, we, I mean, we, we had a, I remember having a meeting with him in his office and he, I distinctly recall him saying, "Look, I've, we're about to go in to, and introduce you to the staff. I just want you to know that we're, I've got, I've got every confidence in you despite what's happened." And, yeah, so it was words to that effect.

So this is likely to have been in the first week in which you were employed.
---I, I, I believe so.

20 Actually working, sorry, as DCP.---I believe, I believe so. It was.

And what was it he said, though, on the subject of an opinion he held – if he indicated it – that you were not appropriately qualified to be the director of city planning?---I, I don't recall him specifically saying that. Yeah, so - - -

So at any stage did Mr Montague indicate to you that he was thinking that you were not appropriately qualified for the position?---Yeah. Yes.

30 He did. So that - - -?---He said it to me, yeah.

How many times?---Not many.

What was the first occasion?---It was early in my tenure.

Actually working in the job?---I believe so.

Yes.---Yes, yeah.

40 And what was it he said on that subject?---Just that, that obviously he, he had reservations about my appointment and it wasn't very, it was a very general conversation but I distinctly remember him saying that.

And what was the context? That is to say, what else was said to indicate to you why he was raising it with you?---I don't recall him giving me a reason why in my conversation to him. Sorry, I don't - - -

Did he indicate more than once to you that he didn't think you were appropriately qualified or hadn't thought that you were appropriately

qualified?---Like I said, very early in my tenure. It would have been maybe a couple of times where he did mention that to me in general conversation.

And wasn't there a context to it? I'm not suggesting this was the context, but did he say something like, "And so I'm looking to you to demonstrate that you can actually do the job"?---No. He didn't say it in that way, no.

10 Can you help us, though, as to what the context was which would assist us in understanding as to why he would have said that to you?---Well, at that point in time obviously I, there'd been a bit of history, obviously, prior to my appointment and, you know, obviously with him withdrawing the offer. And so I had it, I took it, I interpreted it in that context, and from what I remember reading in the press and, and so forth.

Did anyone ever indicate to you why the offer was withdrawn?---I believe my lawyer did at the time but I don't, to the best of my recollection I don't recall there being any specific reason for it and that was my, I guess, feeling of stress that I was under at that point in time.

20 So Mr Montague didn't indicate to you in December 2014, look, I've changed my mind because some material has come to light which has made me consider that you would not be an appropriate person for the job?---I remember that, and it may have been a text that I'd received, but it, as far as the specifics go, no, I don't recall him giving me any detail at that time.

So we're talking December 2014?---Yeah, prior, prior to my appointment, yes.

30 THE COMMISSIONER: Sorry, was it a text from Mr Montague which said something along those lines?---There were, there was a lot of, there were a few texts between myself and Mr Montague provided to, around that December period and it may have been that where he indicated that I, you know, that the, that he had concerns with my position.

But I think Mr Buchanan is asking you specifically whether Mr Montague said to you about some information that had come to hand?---I don't recall. I really don't.

40 MR BUCHANAN: So I just want to clarify the evidence you've just given. The evidence before the Commission is that the offer of employment was made to you by Mr Montague on 8 December, 2014. The offer was withdrawn after that obviously?---Yes.

And do you say that it was before Christmas 2014, say, but after the offer had originally been made that Mr Montague communicated to you a reason for withdrawing the offer, namely an opinion that you wouldn't be an appropriate person for the job or that you weren't adequately qualified?

---No. I, I, I don't recall him being that specific. I, I vaguely remember him saying that there was new material that had come to light.

Okay.---Yeah.

So you do remember that, do you?---Yes, yes.

10 And did you understand from what you were told on that subject by Mr Montague that the new material had changed Mr Montague's mind?---I believe so, yes.

That was what your understanding was from, what you heard Mr Montague say or from what he texted to you?---Correct.

Now, you know now that there were some references that were obtained by Judith Carpenter that were forwarded by her to Mr Montague close to the time when he withdrew the offer. You understand that now, don't you?
---Yes, sir.

20 When did you first become aware of that? Was it in the course of this inquiry or some earlier time?---Sorry, can you repeat the question?

Yes, sure.---Sorry.

You now know that there were some references, referees' references that were obtained by Ms Carpenter which were adverse to you which she forwarded to Mr Montague. You know now?---Yes.

30 Right. When did you first become aware of that? And I'm adding to that, was it in the course of this inquiry or some earlier time?---I believe it was earlier.

And when or how was it communicated to you?---I distinctly remember Mr Montague telling me and it was, I believe it was after my appointment he made reference to a letter he had received during the course of, I guess, the referee checks.

40 And just to clarify. When you say after your appointment, you mean after the offer of employment was given to you by Mr Montague?---I believe so, sir, yes.

Thank you. So I diverted you. I apologise for that. Can we go back, please, to the transcript of this telephone conversation on 23 May, 2016 with Mr Hawatt, Exhibit 227, and I asked you about the reference on the second page to "bagged with Jim". Can I take you now towards the bottom, your second last paragraph on page 2 of that transcript, where you say, "The other things that you need to know is that tomorrow there is an extraordinary meeting." And then you go on to say, "The agenda's been set

but the business paper hasn't been set. I haven't seen the business paper yet." Do you see that?---No, sir, can you, sorry - - -

Oh, I'm sorry. Towards the bottom of page 2, there's the penultimate entry in reference to you where the cursor is wiggling.---Oh, yes.

Do you see that? "And the other thing that you need to know is that tomorrow there is an extraordinary meeting. The agenda's been set but I, the business paper hasn't been set. I haven't seen the business paper yet."
10 ---Yes.

That would have been a reference to an extraordinary meeting of council constituted as it then was by the administrator?---I believe so, yes.

Now, why did Michael Hawatt need to know that?---That I don't recall, sorry.

You thought he needed to know that there would be an extraordinary meeting at council the next day. Do you have a recollection as to why you
20 thought you needed to convey that to him?---No, I don't recall, I'm sorry.

All right. Can I take you then to the next passage in the same paragraph at the bottom of page 2. You went on to say, "And, and there's a couple of items there. One is IHAP, the other is JRPP and delegations." And if we go over the page, you see that you, after talking about the delegations you had and Mr Hawatt said, "Excellent", it would appear you understood that as being Mr Hawatt expressing pleasure that you were going to retain the delegations that you previously had as DCP before the amalgamation?
30 ---Yes.

And what was your understanding as to why Mr Hawatt would have thought that was excellent?---He, he made no secret of the fact that he, you know, thought that I should continue as, in one shape or form, as a, as a, a, I guess a planning officer at council and in this particular case, it would have been director of planning of some sort.

Yes. And what, as you understood it, however, was in it for him?---Oh, I guess because by that stage, he was making enquiries through me in respect of applications, so I think he just wanted to have someone, I guess, there to
40 continue that relationship or communication I guess.

Yes, but it was more than that, wasn't it? you knew that it was more than that.---Sorry, I don't understand.

Well, can I just remind you of the evidence you gave on the last occasion, on the 17th of August, 2018, page 4270 of the transcript. I asked you, "You were a willing member of a circle of people who were organising the processing of development applications and planning proposals or at least

certain ones at Canterbury Council, weren't you?" And you said, "I was a willing member, yes." And then you asked for a break and after the break, I put to you this at line 26, "The circle comprising you, Mr Montague, Mr Azzi and Mr Hawatt, that organised the processing of certain development applications and planning proposals, organised them with a view to an outcome, and the outcome was in each case to favour the proponent, was it not?" And you said, "In the majority of cases, yes." And I asked you, "Was there any case in which the four of you got together and organised the refusal of a development application?" And you said, "Not that I recall, no." So was it your understanding when – I'll withdraw that. You adhere to the evidence I've just read out to you?---Yes, sir.

Wasn't it your understanding when Mr Hawatt said "excellent" when you told him that you were to, as you understood it, retain your delegations, that it meant that the circle minus Mr Montague could continue operating, organising the processing of development applications and planning proposals to favour selected proponents?---No, I disagree with that. To favour proponents? I think it was more a case of continuing that process that was in place prior. Yeah.

But we all know what that process was. You've told us it was a circle which at the time before amalgamation included Mr Montague but which after amalgamation it's just you, Mr Azzi and Mr Hawatt to organise the processing of certain development applications and planning proposals with a view to favouring the proponent, and you've adhered to that evidence today.---Okay. I accept that.

So you accept that when Mr Hawatt says it's "excellent" in his conversation with you on 23 May, 2016, that you were to retain your delegations, you would have understood that as being his pleasure at the fact that you and Mr Azzi and Mr Hawatt would be able to continue organising the processing of certain development applications/planning proposals with a view to favouring the proponent, didn't you?---At that particular time, no, I didn't. I can't honestly say as I sit here that that thought crossed my mind.

Can I ask you then to go to, still on page 3 of the transcript in Exhibit 227. You went on to say – this is at about point 4 on the page – "He didn't ask about IHAP or any of that so I didn't really want to ask. I didn't want to rock the boat. So I don't know what," and you went on to say, "Business paper tomorrow." Mr Hawatt said, "Yeah. With IHAP, we, we spoke to him about it." You said, "Yeah." Mr Hawatt said, "But we're not happy with those committee groups that, that got to," and Mr Hawatt went on to say, "If they're going to keep an eye out, they've got to restructure it. Get rid of this, these existing ones and start all over." Now, was the item that you thought might be on the agenda for the extraordinary meeting of council to be held the next day a question of whether the IHAP was to be reconstituted or to continue in the form it had operated until May 2016? ---That I can't recall.

You know that Mr Hawatt wasn't happy with the IHAP, was he?---Yes.

He had a poor opinion of the membership.---Yes.

And he expressed that to you from time to time?---Yes.

And did you agree with him?---No, not in all the cases, no.

10 What did you think of the membership of IHAP as at 23 May, 2016?
---Sorry, on the – when, sorry?

23 May, 2016. That's the date of this conversation. What was your opinion about the constitution of the Canterbury City Council IHAP?---I, look, I thought that from, that IHAP at, right through my tenure and even at that particular time I thought IHAP had a purpose. However, the process needed to be refined because IHAP's involvement was largely at the end of an assessment process, whereas I thought it would have been more beneficial to have IHAP or a similar body early in the, earlier in the process.

20 Well, you said according to the transcript, "He didn't ask about the IHAP so I didn't really want to ask." You indicated that you didn't basically want to raise a subject you thought might be touchy with Mr Stewart, namely the IHAP, is that right?---I, I really don't recall.

It sounds though as if you didn't want to raise the subject of IHAP with Mr Stewart because you had in mind doing something in relation to IHAP that you didn't know that Mr Stewart would necessarily agree with. That's what it sounds like, doesn't it?---No, I don't, I don't agree with that.

30 You said, "I don't, didn't really want to ask, I don't want to rock the boat." What did you mean by, "I don't want to rock the boat," if it wasn't the fact that you thought that when you talked to Mr Stewart about IHAP it would be to rock the boat?---Well, that was, and correct me if I'm wrong, but if this is the same report that talked about the restructure as well, I mean I guess for me, reading that now, the best of my recollection at the time I would have thought about my tenure at, at, at the newly-amalgamated council, yeah.

40 Sorry, what's the relationship between the IHAP and your tenure at council?
---Well, just not, not to talk to, well, not to rock the boat I guess with Mr Stewart, that may or may not I guess or may or may not affect my potential employment.

Can we go to the next page of the transcript then, please. Do you see that you had spoken to Mr Hawatt about the fact that the business paper were not available, and you indicated, if I can just find it – I'm sorry, I got ahead of myself. I should have asked that we stay on page 3. And do you see there

that Mr Hawatt says in the middle of the page, "Yeah, with IHAP we, we spoke to him about it." You said, "Yeah." Mr Hawatt said, "But we're not happy with the, those committee groups that, that got to," you said, "All right." He said, "If they're going to keep an eye out they've got to restructure it, get rid of this, these existing ones and start all over." Did you understand that Mr Hawatt's opinion, as he was expressing it there at the least, was to actually get rid of the currently constituted IHAP, at least?
---Yes.

10 And was that something you agreed with?---No.

Well, can I just point out to you, that's not something you then said to Mr Hawatt. He says, "Get rid of this, these existing one and start all over." Bottom of page 3 you say, "All right. Well, I don't know, I don't know the details, okay, so just in case you, I," and Mr Hawatt says, "But if, if he asks you I think you should say the same thing." And then something inaudible. And then you said, "Oh, if he, if he, if he would, if he asked me today I would have said it to him but I don't want to raise it, you know what I mean, I don't want to say anything." It doesn't sound as if you were indicating
20 that you were on, to Mr Hawatt that you were on the same page as him in getting rid of the IHAP or not, as the case may be.---Sorry, what was the question?

Well, there's nothing there to indicate that you disagreed with the idea of getting rid of the IHAP?---No, there's nothing in that but if I can just clarify.

Certainly.---It was based on other conversations I had, not only with him but with Jim Montague, during my tenure in terms of the, the way IHAP operated, largely because of the fact that they were towards the end of the
30 process rather than having input early on in the process.

But the Urban Design Review Panel was a proposal to inject into the process a new element at an early stage in council's processing that application, wasn't it?---Yes.

And it wasn't to get rid of the IHAP?---No.

So, did you tell Mr Hawatt at any stage, apart from this conversation, "Look, I don't agree that we should going to rid of the IHAP"?---I, I, as I sit
40 here today, I don't recall ever saying words to that effect but - - -

You don't recall having a disagreement with Mr Hawatt on the question of whether the IHAP should be disposed of?---Not that I can recall, sir, no.

And is there a reason why you don't have a recollection? I mean, how often did you disagree with Mr Hawatt in the time that you were director of city planning?---Sorry, what was the first part of your question?

Well, the first part of my question is, you said you don't recollect disagreeing with Mr Hawatt. My question is, is there a reason you don't recollect, namely you never disagreed with him on that subject? That would be a good reason to not recollect a disagreement, wouldn't it?---No, I don't agree with that, no.

You might have disagreed with him, is that - - -?---May have.

10 Right.---I'm not sure.

And so my question is, how many times did you disagree with Mr Hawatt in the time that you were at council?---There were, there were times where I did. I, I can't give you a specific number but there were times when I, in relation to applications, where I disagreed with him and pointed out to him that changes needed to be made and so forth, with regard, particularly those applications that he was advocating. So - - -

20 Can you assist us with the detail, the name of any such property or project where you actually had a disagreement as against educating Mr Hawatt, like actually had a disagreement with him?---Oh, okay.

About what should be done.---Sorry, I misinterpreted your initial question.

So, when you say that, you're saying there are plenty of times when I had to educate Mr Hawatt and Mr Azzi about planning requirements?---Yeah. And about changes that needed to be made in, in respect of the applications, yes.

30 But were there any occasions where you had a disagreement with Mr Hawatt inasmuch as he said A and you said, "No, I don't agree with A," where he maintained a position and you actually disagreed with it and said, "No, I won't do that"?---I can't recall, sir, I'm sorry, if I did or not.

Is it possible that that means there was no occasion when you had a disagreement with Mr Hawatt as to how an application or a submission for a planning proposal or a planning proposal should be dealt with?

40 MR PARARAJASINGHAM: I object, Commissioner. His evidence is that he doesn't recall. Anything beyond that, at this stage, invites speculation, in my submission.

MR BUCHANAN: In my submission, it's not speculation, Commissioner. We're just trying to test the evidence of the witness and to work out what it means when the witness says, "I don't recall."

THE COMMISSIONER: No, I'll allow it.

THE WITNESS: Sorry, can you - - -

MR BUCHANAN: Yes, I'm just trying to establish, when you say you don't recall a disagreement with Mr Hawatt about how an application should be handled or a planning proposal should be handled, does that mean, as far as you can assist us with, there was no occasion when you disagreed with him? Or does it mean, oh, look, I have got a recollection, look, that from time to time we disagreed and we had our different positions but I actually can't just recall a particular one now? So - - -?---I don't know if disagree is the right word, sir. There were certainly plenty of times where he was, made
10 enquiries and was advocating a position in terms of certain applications and my response was largely to, like you said earlier, to educate him to say that there were issues with those relevant applications. So I don't know if that, you'd term that as a disagreement but - - -

And you don't recall having a disagreement with Mr Hawatt about his view that the IHAP should be disposed of?---Not that I can recall.

Now, then I took you to the bottom of page 3 going over to page 4 after Mr Hawatt talks about, "They've got to restructure it. Get rid of these
20 existing ones and start all over." You say, "All right. Well, I don't know, I don't know the details okay so just in case you, I". Mr Hawatt then says, "But if he asks you I think you should say the same thing." And then you said, "Oh, if he, if he, if he would, if he asked me today I would have said it to him but I didn't want to raise it, you know what I mean. I didn't want to say anything." So in that exchange there Mr Hawatt was giving you guidance as to the position you should take on a matter of council business with the new, sorry, the, yes, the acting general manager. Is that fair to say? "If he asks you I think you should say the same thing"?---Sorry, what was your question exactly?

30 He was giving you guidance as to what you should say - - -?---Yeah, I think he - - -

- - - on a matter of council business when talking with the acting general manager.---Yes, I - - -

Is that fair to say?---Yes, sir.

40 And you responded, "Oh, if he, if he, if he would, if he asked me today I would have said it to him but I didn't want to raise it, you know, you know what I mean." So essentially there apart from the fact that you say you didn't want to rock the boat, that is something on which you accepted Mr Hawatt's guidance, you would have raised it with him?---Well, if, if Mr Stewart raised it with me, yes.

Getting rid of IHAP?---I don't know if, whether getting rid of it or looking at restructuring it, I'm not sure, but certainly if he raised the topic I would have certainly engaged with him.

It just seems a little difficult to understand why Mr Hawatt said, “If he asks you I think you should say the same thing” unless he was, either assuming that you agreed that the IHAP should be disposed of or telling you that you should say to Mr Stewart that the IHAP should be disposed of?---I don’t recall that at all, no. I don’t agree with that.

10 And you said to him that if he’d raised the IHAP, Mr Stewart had raised the IHAP, you would have said to him what Mr Hawatt said to you you should say to Mr Stewart?---No, that’s not the way I interpret that. No, I’m sorry.

Excuse me a moment. Now, can I take you then to page 5 of the transcript. Do you see in about the middle of the page you said, “Well, maybe he hasn’t finished it so hopefully I’ll get it tomorrow sometime but it’s out, it’s on at 6 o’clock at Bankstown.” Just pausing there. That’s a reference to the extraordinary meeting of council?---I believe so.

20 Mr Hawatt asked, “Are you going?” You responded, “I’m going to go, yeah. He asked for me to go.” Mr Hawatt said, “All right. Good.” Why did you understand that Mr Hawatt thought it was good when you said you were going to go to the meeting and that Stewart had asked you to go?---I don’t know. Sorry.

It sounds, doesn’t it, as if – as far as you could tell – Mr Hawatt was pleased that you were maintaining a relationship with the acting general manager and a position in the business of council whereby you would be able to continue to have an input into decisions on development applications and planning proposals, doesn’t it?---I don’t interpret it that way.

30 Why wouldn’t you interpret it that way?---Because he’s merely asking me, “Are you going to the council?”

Yes, but why does he think it’s good either that you’re going or that Mr Stewart asked you to?---I can’t answer that. I don’t, I don’t really know.

40 You see, do you remember at the end of the last day – I think it was 17 August – where we talked about this conversation, and I put to you that it was like a couple of conspirators talking to each other about how to handle something, and you rejected that.---Yes.

But, you see, it is a bit like a couple of conspirators, isn’t it, talking about how to handle the GM and you maintaining your position of influence as director of planning obviously with a view to influencing planning decisions.---I don’t agree with that.

How else could you interpret it? Why is it in Mr Hawatt’s interest, as you understand it, for you to be going to the extraordinary meeting or for Mr Stewart to have asked you to go to the extraordinary meeting?---I can’t

answer that. Like I said before, I don't know what, what he was thinking. I can only assume, obviously from what I've said before, it was no secret that he, he, he, he wanted me to continue in my role of some sort at the council, the newly amalgamated council. So - - -

With a view to influencing planning decisions for the developers for whom he advocated.---Look, I, I, I don't know whether that was his main focus, to be perfectly honest with you, but I - - -

10 Well, what did you think was going on?---Well, I didn't really think about it in that sense. Yeah.

But why did you bother having these contacts with Mr Hawatt?---Because he was, he was a former councillor and he was advocating, he continued to advocate on behalf of proponents and it was, it was just, I guess, almost like business as usual.

Yes, you've seen that passage in the transcript, haven't you?---Which one, sir?

20

“Business as usual.”---I, I can't – what page is that on?

Page 14, I'm reminded. Bottom of page.---Yeah. Yes.

You were the one who used that expression.---Yeah.

And that's the business between you and Mr Hawatt?---No, I don't know whether that was in reference to that. I think it was just business as usual from a council perspective.

30

But nothing was business as usual from a council perspective, was it? It was a new regime with different decision makers. The decision making process had been up-ended as at the date of amalgamation, hadn't it, except that you were still director of planning.---That's fair. Correct.

And we know what business as usual meant because of the words that you used before that in the conversation about what you and Mr Hawatt talked about should remain confidential. Isn't that right?---I don't recall that exactly, sorry.

40

Can I take you to page 10 of the transcript and do you see towards the bottom of the page you – sorry, towards the top of the page, you had told Mr Hawatt that you had told Mr Stewart that Mr Azzi had rung you?---Yes, sir.

And you were doing that to try to ingratiate yourself with Mr Stewart, I take it?---Yeah, and I, I actually believe, I distinctly recall conversation that Mr Stewart had with me about councillors, should councillors contact, I'm not sure if it was us or in reference to me that he would like to know.

Yes. So you were telling Mr Hawatt that you told Mr Stewart that in Mr Azzi had been inquiries about the business paper?---Yes.

See that towards the top of page 10?---Yes, sir.

And then, and that he had said, "Thank you for letting me know." And you went on to say, "Do you know what I mean, do you know where I'm coming from?" Mr Hawatt said, "I understand." You referred to loyalty.
10 Mr Hawatt then said, "I understand that, this, no, exactly that is, that is very important, look, you know, but as far as, I mean, you know, we, we, you and I, we, we talk about other things and," and then you interrupted, "Yeah, don't worry about that." Mr Hawatt said, "Because as far as I'm concerned, nobody, and nobody, is going to know that I called, I called you." And you went on to say, "No, no, no, no." And Mr Hawatt said, "Or anything, 'cause I don't want people," and then you said, "No, no. He knows, he knew because he raised the fact that," and then he, Mr Hawatt said, "The problem with Pierre, you know, the problem with Pierre." So when Mr Hawatt said to you, "As far as I'm concerned, nobody, and nobody, is going to know
20 that I called you." And you said, "No, no, no, no, no, no." What's going on?---I, look, I remember there were ah, after the amalgamated, I don't know exactly what's going on, the answer to your question, but can I put it in some context, if I may? Both Pierre Azzi and Mr, and, and Michael Hawatt divulged to me in numerous conversations that they had discussions with Matt Stewart and others, may have been others as well, I'm not sure, around the business of council and the newly-amalgamated council.

Yes. How does that help us understand what's going on when you were told by Mr Hawatt, "As far as I'm concerned, nobody, and nobody, is going to
30 know that I called you." And you emphatically agreed?---Look, I don't recall that.

No, but you can see that you did and you heard the recording, didn't you?
---Sure, yeah.

And so my question is, you were agreeing with Mr Hawatt that your communications with him would be kept a secret between you and him, didn't you?---In, in that exchange, yes.

40 And you had that position because you knew that it was a wrong thing to do, to be being influenced by Mr Hawatt in decisions that you made in the processing of development applications and in the processing of planning proposals, didn't you?---No.

You didn't know it was the wrong thing to do?---No, I, no, I didn't.

So why couldn't Mr Stewart, as far as what you were telling Mr Hawatt was concerned, know about your communications with Mr Hawatt?---Sorry, what was the question again?

Why couldn't Mr Stewart, so far as your conversation with Mr Hawatt is concerned on 23 May, 2016, know about your conversations with him, Mr Hawatt?---I, I don't know.

That's not an honest answer, is it, Mr Stavis?---Well, it is. It is.

10

It's plain, isn't it, that the two of you were getting together and agreeing that the communications between the two of you would be kept secret. You agree with that?---Like I said to you, I had conversations with Matt Stewart and I, I distinctly remember telling Matt Stewart on occasions about contacts that I had with Mr Hawatt. Now, it may not happened all the time.

20

Can I ask you to go to page 12 of the transcript. And do you see the second entry for you on that page, which reads, "I, I didn't, I didn't tell, I didn't tell Pierre that I said that I, I rang Matt, okay? So." Mr Hawatt said, "Yeah, no, that's fine. I'm not going to say." You said, "Just between you and I." He said, "I'm not going to say a word." You said, "No." He said, "About anything that you and I talked about." You said, "Yes. No." Hawatt said, "At all, all right?" You said, "Good, good." And then Hawatt said, "Because I don't, because Pierre double-checks and he double-checks." You see that?---Yes, sir.

30

So why were you agreeing with Mr Hawatt that he wouldn't say a word about anything that you and he talked about?---As I sit here, I don't know why, to be honest with you.

Was it a statement to the effect that you weren't going to tell Pierre what Hawatt had said to you?---That's the way it reads. But like I said, I, I really don't recall.

But you weren't going to tell Mr Stewart about your conversation with Mr Hawatt, were you?---I, I'm not sure if I did about this conversation, but I know I've spoken to Mr Stewart (not transcribable) before about conversations that I had with former councillors.

40

Yes, I note the time, Commissioner.

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

LUNCHEON ADJOURNMENT

[1.00pm]