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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 MONDAY 8 OCTOBER, 2018

AT 2.00PM

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

THE COMMISSIONER: Mr Buchanan.

MR BUCHANAN: Can I take you to the transcript of Exhibit 227, please, and to page 14. Do you see that at the bottom of page 14, towards the bottom of page 14 after a discussion about how you had a good exchange with Mr Stewart on the phone, which Mr Hawatt thought was excellent, you  
10 said, and then you appear to be closing up or concluding the conversation with Mr Hawatt. You say, "All right, my friend." Mr Hawatt says, "Okay, thanks for that." You say, "Business as usual. No worries. I'll chase that up tomorrow for you, okay." Mr Hawatt says, "Okay, if you can check that JA," as reproduced in the transcript, page 15 of the transcript, you say, "I will." Hawatt says, "Jacob." And you say, "I will." And Hawatt says, "Okay then. Thanks for that, appreciate it." And you say, "No worries, mate. Cheers, mate." Can I just go back to your reference to "Business as usual," at the bottom of page 14 of that transcript.---Yes, sir.

20 That was a reference to your dealings with Mr Hawatt. Is that right?---I, I, that I can't be certain of.

I want to suggest to you that that's exactly what it means. You've read this transcript, haven't you?---I'm not sure if I have, to be honest with you, but you've taken me through it, yes.

Yes. And you had been discussing the relationship that you had with Mr Stewart with Mr Hawatt, hadn't you?---Yes.

30 And your relationship with Mr Azzi and with Mr Hawatt himself?---Yes.

You were referring, when you said, "Business as usual," to the dealings that you were having with Mr Hawatt in relation to the applications in which Mr Hawatt was interested or in which he expressed interest, weren't you?  
---Like I said before, that I can't be certain of.

And when you said, "I'll chase that up for you tomorrow," going over the page, that's plainly in relation to a property developer with the name Jacob?  
---Yes, I believe so.

40 And was that a property developer, Jacob Joseph, who had an application in for a child care centre?---I, I, I believe so, yes.

And Mr Hawatt had an interest or had been expressing an interest with you in that. Is that right?---He had, yes.

And you had been helping Mr Hawatt in relation to that application. Is that right?---I'm not sure what you mean by helping, but I was, yeah, keeping him in the loop, yes.

Well, why was business as usual, given that Mr Hawatt was no longer a councillor and you no longer had an obligation to respond to him when he made inquiries of you?---Because as I said in, in earlier today, discussions that I had had previously with Mr Hawatt about his dealings with (not transcribable) council, dealings with Mr Azzi, Pierre, sorry, Matthew  
10 Stewart, and he did express to me on a number of occasions that there was his desire to get back into council and also his, I guess that's what he, that's what he ultimately wished. So the business as usual as far as I saw it was continuing that I guess relationship that I had in the past, knowing that in the context there may have been a possibility that some of these councillors would have potentially been back into council at some point in time.

Mr Stavis, I want to suggest to you that that is simply not credible. You had a relationship with Mr Azzi and Mr Hawatt up to the point of amalgamation in which the three of you and Mr Montague were processing applications  
20 and planning proposals for selected developers to achieve outcomes which were favourable to them and you were continuing to do that after amalgamation. It's just that Mr Montague was no longer in the frame.---I don't deny that but, as I said, there was a real possibility the way it was expressed to me in discussions that they would potentially be re-elected or whatever the case may be.

How would that have affected your thinking as to how you should relate to them? For example, when one or other of them asked you for information about an application, how did that affect the way you responded?---Because  
30 of the real, I guess, possibility that they would come back and therefore if that was the case obviously I would have to do, assuming I was there, would have to do business with them in terms of continuing the lines of communication that I had in the past.

Why, were you scared of them?---Oh, I wouldn't say scared. I'd say that obviously they had influence in the past over the, the council itself.

And what was it about the fact that they might be re-elected that made you think that you should respond positively and actively to, for example,  
40 inquiries by them after amalgamation as to what is happening with a particular matter?---Well, because if there was, if they were to be re-elected, you know, I mean not having continued that relationship may have potentially jeopardised my employment I guess.

Why may it have potentially jeopardised your employment? What was your thinking, if you could explain it to us, please?---Sure. That obviously they had an influence in the past in my experience in terms of the, I guess, the employment of myself.

Are you saying that you had your job because of them, because of the strings they had pulled?---No, I don't know whether that's true but I know that they had influence obviously as if to - - -

What's the difference between pulling strings and having influence?---I don't know, sorry.

10 Yes. And so are you telling us that the reason why you continued to do business with them was because you were scared you would lose your job if they came back and you hadn't been assisting them and therefore they would try and get rid of you? Are you telling us that that was your calculation?---I believe so, yes. As I sit here today, yes.

20 Well, can I suggest to you that that was not your predominant concern. You had an active ongoing business with these two gentlemen in the determination of applications and the processing of planning proposals and you simply wanted to continue that after amalgamation.---That's not true, sir.

Did you ever say to them don't you think we shouldn't be talking to each other now? I mean did you question why you should be talking to either of these two gentlemen after amalgamation?---Not that I can recall.

Why not?---It just didn't occur to me, I guess, to question them about that given that they had continued, I guess, making inquiries in the usual way. It didn't really cross my mind.

30 It indicates, doesn't it, that you had a relationship with these two men of a quality which you weren't inclined to question, notwithstanding the fact that they had no legal power over you anymore after amalgamation.---Can you please, I'm not sure what you mean by quality.

You had a relationship with them which did not depend upon your apprehension of the power they might exercise over you legally as councillors. Instead you had a relationship with them whereby you were happy to be involved in determining DAs and planning proposals favourably to developers whom they nominated.---That's not true.

40 If the witness could please be shown in Exhibit 52, volume 5, page 308. It should be on the screen in front of you as well, and if I could ask you to have a look at item 693, second from the top on page 308, in this table of SMS messages extracted from Mr Hawatt's phone. Item 693 is a text from you to Mr Hawatt on 25 May, 2016, at 4.24pm, and the message reads, "I can only make it work on four extra units, mate, not eight. There is no other planning argument, which means he gets one extra level on the corner." Do you see that?---Yes, sir.

And just so that I can assist you, if I can, with the context. If you can go back, please, to page 307, and item 689, three from the bottom on that page, is a text to you on 24 February, I'm sorry, 24 May, 2016 from Mr Hawatt, reading, "Any news re corner of Lakemba and Haldon (Jabour)?"---Yes.

You see that?---Yes, sir.

10 And you said in the next exchange, "Let you know tomorrow for sure, mate." And he replied, "Okay. Thanks." And then Mr Hawatt reminded you at 3.55pm on 25 May, "Any news?" And then you sent that text, "I can only make it work on four extra units, mate." Do you see that?---Yes, sir.

You were providing this particular developer, Mr Jabbour, with a solution, were you, at Mr Hawatt's request?---No, it wasn't at Mr Hawatt's request. The gentleman had approached us prior, I believe, to get extra levels on an approved scheme that he had. But in the context of this SMS, yes, it was an inquiry obviously that was made by Mr Hawatt to me.

20 And you weren't able to give him an answer at 4.58pm on 24 May, but you were able to give an answer at 4.24pm on 25 May, 2016.---Yeah. Yes.

That is to say because of Mr Hawatt's inquiry on 24 May, at 4.56pm, that's item 689, you did some work on it and provided a solution. You could make it work only on four extra units, not eight, is that right?---I think that's a fair comment.

30 Yes. And this is an example, isn't it, of the circle, as I previously described it, this time not involving Mr Montague but involving you and Mr Azzi providing outcomes as favourable as possible to the developers nominated. ---Were you referring to Mr Hawatt, not Mr Azzi?

I did mean Mr Hawatt, thank you.---That's okay. I think that's fair, yes.

40 And can you see that there are subsequent texts on 26 May, first of all Mr Hawatt said, item 694 on 25 May at 4.50pm, "All come back to you," but that probably was meant to be, "I'll come back to you." And then on 26 May at 695 he sends a text, "He is in agreement to one extra level only on the corner, however in lieu of the four units on the floor plate will increase this to five units as presented in the latest plans. This will result in seven units instead, the eighth unit can be achieved adjacent to the child care to fill in the gap. Signed, Michael." Do you see that?---Yes, sir.

And then item 696, "Can you approve this and include condition to remove the rest from 13 to eight instead of changing drawings to finish it quickly? Thanks, Michael." Do you see that?---Yes, sir.

And do you see how you responded? Item 697 at 11.49am on 26 May, “Cannot be conditioned, mate, I’m at conference today till late. Tell him to email me a sketch and I’ll look at it tomorrow.” Do you see that?---Yes, sir.

Do you see those texts?---Yes, yes.

10 And would they be typical of the sort of negotiation into which you entered with Mr Hawatt and Mr Azzi when he made these sorts of approaches to you to arrive at solutions as favourable as possible to the developers they nominated?---It, it wasn’t typical of negotiations between myself and the councillors, those two councillors. It was normally as a result of meetings that I’d had with the developers direct in the first instance, and when these inquiries were made by the councillors I’d let them know what, I guess, what the outcome was in relation to those meetings.

But we can see for ourselves what Mr Hawatt had been indicating Mr Jabbour wanted and what your response was to that, so wasn’t it a case of you negotiating with the developer via the developer’s advocate, Mr Hawatt - - -?---Not in - - -

20 - - - in this case?---Not in, not entirely in this case but certainly in reference to that text I’d say, yes.

Can I ask you to have a look, please, at page 308 again, item 703 and 704 on page 308, volume 5.---Yes, sir.

30 Can you see that item 703 is a text to you from Mr Hawatt on 3 June, 2016, “Hi, Spiro. Joseph re New Canterbury Road, Hurlstone Park, child care DA, what’s the outcome? Joseph was waiting for a response from your planner today. Signed, Michael.” Do you see that?---Yes, sir.

You respond at 4.43pm saying, “I’ll chase it, matey.” Do you see that? ---Yes, sir.

And then at 703, sorry, item 705 on 3 June you say to Mr Hawatt, “Mike, I’m free at 2.00pm tomorrow if okay with you. Tell me where you want to meet.” Was that about Mr Jabbour’s application?---It, it reads that way, yes, I just don’t recall if it was, but - - -

40 Was there something else which, some other topic which interposed in the conversation that you were having with him on SMS at this stage?---Not that I can recall.

And you see that item 706, Mr Hawatt said to you at 6.29pm on the 3<sup>rd</sup> of June, “Okay, my place, it’s private. 42 Wyong Street, Oatley.” Do you see that?---Yes, sir.

Excuse me a moment. Do you remember going to Mr Hawatt's place on this occasion?---No, not on that occasion. No.

Did you go to Mr Hawatt's house after the amalgamation had taken place?  
---Not that I can recall, I'm sorry.

You indicated in item 707, a text to Mr Hawatt at 7.08pm on the 3<sup>rd</sup> of June, "Done." As in, you agreed to meet him at his place, isn't that right?---Yes.

10 And after that, on the 4<sup>th</sup> of June, you said, item 708 at the bottom of page 308, "Hi Mike, I can't make it today after all. Let's catch up on Monday after work. Do you see that?---Yes, sir.

Was that you indicating you couldn't go to his place?---I believe so.

Can I just ask you please to listen to a recording. Commissioner, if we could please play LII 10635, recorded on 3 June, 2016, commencing at 6.13pm. So, keep in front of you those text messages at the bottom of page 308. I'm asking you about a telephone conversation between you and Mr  
20 Hawatt which we'll listen to now, that commenced at 6.13pm.

**AUDIO RECORDING PLAYED**

**[2.28pm]**

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

30 THE COMMISSIONER: The audio file and transcript of the recording LII 10635 recorded on 3 June, 2016 commencing at 6.13pm will be Exhibit 228.

**#EXH-228 – TRANSCRIPT SESSION 10635**

40 MR BUCHANAN: Can I raise a question of transcript accuracy in the transcript that we saw on the screen compared with what we've heard when the recording was played. Excuse me, Commissioner. On page 2, a bit before point 5 on the page, what is attributed to Mr Stavis is, "You know how I told you they'd," t-h-e-y'd, "like to do some massaging involved." We heard, "You know how I told you there might be some massaging involved."

THE COMMISSIONER: Mr Stavis, do you agree with that?---Um - - -

MR PARARAJASINGHAM: That accords with my instructing solicitor's note, yes.

THE WITNESS: That's fine, that's fine, yeah.

THE COMMISSIONER: All right. We'll make that amendment.

MR BUCHANAN: Thank you. On page 7 of the transcript by way of introduction can you see, Commissioner, at the top attributed to Mr Stavis is, "They're all," t-h-e-y'r-e, "They're all gone, they're all gone, done, I've got, I've cleared the decks." Mr Hawatt says, "Oh, excellent, that's good."  
10 And then attributed to Mr Stavis in the transcript is, "All good, my friend, I'll, that one that," and then he goes on to talk about another one. We heard, "All gone, my friend," consistent with what Mr Stavis had been saying earlier.

THE COMMISSIONER: So instead of, "All good," "All gone."

MR BUCHANAN: Instead of, "All good," yes.

THE COMMISSIONER: "All gone, my friend."  
20

MR BUCHANAN: Yes.

THE WITNESS: Well, I don't recall that bit of it, but - - -

THE COMMISSIONER: It's consistent - - -?---Yeah.

- - - with what you'd said previously.---Okay. I just don't recall it, I'm sorry. I don't remember it.

30 MR BUCHANAN: Well, Commissioner, we're not, all we're doing is making notes on our copies of the transcript or the exhibit at this stage, so if it becomes important then it might need to be replayed.

THE COMMISSIONER: We can replay it, yes.

MR BUCHANAN: Can I take you to the first page of the transcript of Exhibit 228, please.---Yes, sir.

40 And you see the second-last paragraph attributed to you, commencing, "Okay, listen."---Yes, sir.

It says, "Okay, listen. I, I just want to, I forgot to mention today when I saw you that I, I met with Jabbour's architect today." You obviously had seen Mr Hawatt face-to-face on 3 June, 2016?---It appears that way, yes.

Where had you been when you had seen him?---Most of the time, and I, it's likely, from the best of my recollection, that I met him at council at the front counter, there were like a couple of offices, and that was, that was a

common practice. He would meet me in those, in one of those two offices at the council chambers.

Mr Hawatt at 6.29pm on 3 June in the text message number 706 on page 308 of volume 5 of Exhibit 52 had proposed meeting at his place the next day. You see that?---Yes, sir.

10 And you had responded to that at the time affirmatively with the word, "Done." Why had you been prepared to meet him at his place, particularly after he said, "It's private?"---I, I, I don't know, I, I really - - -

How many times did you meet with Mr Hawatt in the time that you were working at council, at his house?---Not many at all, maybe once or twice at best, from the best of what I recall.

And you can recall, can you, that there was no occasion when you met him at his house after amalgamation?---As I sit here today, that's the best of my recollections.

20 However, at 7.08pm on the 3<sup>rd</sup> of June, 2016, item 707 in that table of extractions, indicates that you were content to, indeed had made an agreement to meet with Mr Hawatt at his place the next day.---I think that's fair, yes.

And why were you prepared to meet him at his place?---Like I said, I, I don't know. I can't give you any answer on that.

30 Well, I'm not so much asking you what the agenda was for the meeting. Why were you prepared to meet Mr Hawatt at his place when he was no longer a councillor in order to transact some sort of business with him in relation to the way you did your job?---I, I don't know, sorry.

But that's what was happening, wasn't it? That you were prepared to meet him at his house when he was no longer a councillor to transact some sort of business with him in relation to the way you were doing your job?---In relation to that, yes.

An aspect of your job.---Yeah. In relation to that matter, yeah.

40 An aspect of council business.---Well, I'm saying – yes, yes.

If I could take you back to the transcript of Exhibit 228, please. Can I ask you to go to page 6. You refer at the top of that page of the transcript to the fact that Mr Stewart had been on your arse about processing times and had been auditing you. You see that?---Yes, sir.

And you then said, "Yeah, you don't know, mate, I'm, mate, telling you now, this guy, I'll, I'll, I want to talk to you face to face, just you and me, all

right?" Mr Hawatt says, "All right", and you say, "We, we need to so we can, you can understand what, it's not going to be the same." Mr Hawatt said, "Yeah." You said, "We've got to play it differently." Mr Hawatt said, "All right. Let's have a chat. We'll, we'll do that, we'll have a chat about that." You had a concern, did you, that you needed to change the way that you were communicating with Mr Hawatt, or was it something else that you had a concern about?---No, it had nothing to do with the communication.

10 What was not going to be the same?---Just, just the way the council was being run was different to what, I guess, his expectation was when it was, when he was a councillor.

And why did you need to talk to him face to face about that?---I, I don't know. I - - -

You see, you said to Mr Hawatt, "We've got to play it differently." This is about point 7 or 8 on that page, do you see that?---Yes.

20 You were referring to you and him, weren't you?---No, I was referring to just in general how business was being ultimately going to transpire at council, the new council.

The sort of business in which Mr Hawatt had an interest?---Well, partly thereof but just in general. The, the, it was a different approach to planning and processes.

30 When you said, "We've got to play it differently," did you mean you, Mr Hawatt, I, and also Mr Azzi parenthetically have got to play it differently in relation to the way that the three of you had been influencing planning decisions at council?---No, I don't, I don't believe that that was what I meant by that comment.

40 That does seem like the most likely meaning I want to put to you, Mr Stavis. Can you give us a different meaning?---I can. It was no secret that the way Canterbury Council was operating from a planning perspective – processing of applications, a more conciliatory approach – was completely different to the new, I guess, amalgamated council in terms of how they were processing applications and that there were two different philosophies. So in terms of the, the dealings and trying to find conciliatory approaches with the, with Canterbury Council versus the newly amalgamated council there was just a different ethos.

What were the different ethos?---There was no tolerance, or very little tolerance, in terms of how the new amalgamated council, which largely formed a lot of, well, obviously had Matt Stewart as a former general manager of Bankstown Council, they dealt with applications differently in the point of view that they were more strict in terms of looking at

prescriptive standards, development standards as opposed to the way Canterbury Council did, operated.

The way Canterbury Council had operated under you, Mr Montague, Mr Hawatt and Mr Azzi?---Yeah, I think that's fair, yes.

Why couldn't you explain this to Mr Hawatt over the phone?---I really don't know why. It's probably because it, I don't know. I really can't - - -

10 Isn't the explanation – I withdraw that. Firstly, you've told us that you do agree that what you had in mind was the way planning decisions were approached at the new council?---Yes, sir.

Secondly, you had indicated to Mr Hawatt that there needed to be a discussion between you and him that was not on the telephone that instead was face to face?---That's what, that's what's in the transcript, yes.

20 And the only explanation is that you didn't want to talk on the phone to Mr Hawatt about the way you and he in particular approached influencing planning decisions on the amalgamated council on the phone lest someone else be listening?---No, that's not true, sir.

30 And you wanted to explain to Mr Hawatt that you and he would have to play it differently. You – doing the work you did at council in the circle, as I've described it, with Mr Azzi and Mr Hawatt – would have to play it differently.---Not, it applied across the board that there were, like I said before, there were different ethos between the two councils so it, stemming from that obviously it meant that the expectations of what was considered appropriate in the past was different to, from a planning perspective was different to what the newly amalgamated council was operating.

40 Well, there were two ways in which things were different. One is, as you've told us, the different approach to making planning decisions at the amalgamated council and the other was that Mr Azzi and Mr Hawatt were no longer councillors and Mr Montague wasn't there. So there was two very significant ways in which the situation had changed so far as concerned you influencing planning decisions on council was concerned, weren't there?---I, I, yeah, I do accept the fact that there was, like I said, there was a different philosophy in the past and obviously my solutions driven approach was probably not, well, became evident to me that it would not be - - -

In favour?---Yeah, they wouldn't be doing it, they, because of their ethos being different they'd be, yeah, it would be a different approach to things.

And from the fact that the council was not controlled by Mr Hawatt or Mr Azzi anymore, was that not also a factor that meant that your, I'm sorry, which meant that achieving favourable outcomes for nominated developers

couldn't be anything like guaranteed anymore?---Sorry, can you repeat the question?

Yes. The fact that Mr Azzi and – I'll start again. Mr Azzi and Mr Hawatt were no longer on council. True, correct?---Yes.

Before amalgamation they controlled the council. Correct?---Yes, correct.

10 And when I say council, I'm talking about the numbers on the body consisting of the councillors.---Yes.

And so they were no longer able to influence planning decisions by the amalgamated council, were they, as councillors?---No, not as councillors.

And Mr Montague wasn't there anymore. He wasn't able to influence planning decisions by the council as general manager. Correct?---Correct.

20 You were under, shall we call it, surveillance by the acting general manager as to how you were handling matters and you had to be very careful. Isn't that fair to say?---I wouldn't say surveillance.

Well, you told us that Matt Stewart had been on your arse about processing times and been auditing you.---Yeah, look, I, I don't recall what I meant by auditing but I, I know that Matt Stewart was talking to me about applications. Don't forget I was only there for a very short period of time with him, under his, I guess under, under Matt Stewart.

You were subject to scrutiny.---He was or me?

30 You were, in the new regime.---I didn't feel that I was.

You were being audited. You were being told that you should report to the general manager the contacts you had - - -?---Sure.

- - - from the previous council?---Yes. I accept that.

You weren't under scrutiny, you didn't feel under scrutiny?---Not really, no.

40 But you still thought it necessary to have a face-to-face conversation to convey to Mr Hawatt or to canvass with him how to deal with the fact that things had changed, and in your opinion you and he and Mr Azzi needed to play it differently.---I don't know if I said that exactly, to be honest with you.

Well, what does, "We've got to play it differently," possibly mean other than you and he and Mr Azzi had to play it differently, had to modify the approach or approaches that you had been taking to the influencing of

planning decisions on council?---Well, that, that goes to the fact of, of the change in the way applications were being considered, so - - -

What is “We,” a reference to?---Council, the new council.

So we, council, have got to play it differently you say is a reference to council rather than - - -?---Oh, sorry.

10 - - - being a reference to you and Mr Hawatt and Mr Azzi?---Sorry, I didn’t realise you were referring to my comment there.

Yes, sorry, I am.---Yeah.

“We’ve got to play it differently.”---Yeah, I just wanted, it’s just what it says. I mean they, they needed to be made aware, they being primarily Mr Azzi and Mr Hawatt that it was a different regime.

20 THE COMMISSIONER: But in the context, if you look at your previous statement you say, “We need to so we can, you understand what, what, it’s not going to be the same, we’ve got to play it differently.” Now, that really suggests speaking to Mr Hawatt and saying to him, if you accept your evidence that it’s a different ethos, it’s a different planning philosophy, “We’ve got to play it differently.” And what Mr Buchanan’s putting to you is that suggests that you need to have discussion at least with Mr Hawatt as to how the circle is going to progress the applications that Mr Hawatt and Mr Azzi have got an interest in or are acting as advocates for. Reading that, that’s really the only construction I can put on it.---That’s, that’s not, I, I know that probably reads like that, but that’s not what I meant by that. I wasn’t sure that they were aware that this, there was a completely different  
30 sort of way of doing business between what they were used and what obviously had ultimately transpired. So the way I read that is, because I remember having conversations with them at some point after saying that it is a problem with, with applicants that come now and, and, and, you know, want to look at things because the, the philosophy on planning was different now. So, I’m, I’m just, it’s, yeah.

40 MR BUCHANAN: I’m not suggesting that’s wrong, Mr Stavis. What I’m focusing upon is the consequence of your view that that was the case, namely, “We’ve got to play it differently.” Council doesn’t play anything, does it? But if you and Mr Hawatt and Mr Azzi are in a circle that are affecting and influencing planning decisions on council for nominated developers to achieve favourable outcomes for them, then it’s quite understandable that you might have to adjust your strategy, indeed your tactics, in view of the changed landscape.---But, no, I disagree because I did not have any, the, the, the powers that be were different, so how could I then influence decisions that would be made ultimately by in this case a general manager who, who had a different ethos?

What were you doing with Joseph Jabbour's application?---That, from what I - - -

Tony Jabbour's application. Massaging it?---Well, that, that application was before the amalgamation had happened. He came to see me about that and came to see my staff about that particular application and it, it wasn't a case where that happened after the amalgamation occurred.

10 I'm looking at the text messages 693 through to 697 on page 308, volume 5, and the dates are the 25<sup>th</sup> of May and the 26<sup>th</sup> of May. That's after the 12<sup>th</sup> of May, when amalgamation occurred.---Yes.

You're negotiating how that particular application will be processed, aren't you, with Mr Hawatt?---Yeah. Well, I wouldn't say negotiating but I was trying to find a solution, yes.

20 So, you still certainly had power to influence planning decisions after amalgamation, didn't you, as director of planning?---Well, no, I, I disagree. I, I didn't have the power.

Director of planning had no power to influence planning decisions on council?---Subsequent the amalgamation?

Yes.---For me?

Yes.---I don't believe so, no.

30 THE COMMISSIONER: But in 693, you're suggesting a solution, aren't you. "I can only make it work on four extra units, mate, not eight. There is no other planning argument which means he will get one extra level on the corner."---Sure.

So that's you assisting, and this is Mr Jabbour, isn't it, in getting his, if it's an application up, not with the eight extra units that he wanted, but four extra units. So that demonstrates that you're still able to affect an application before the amalgamated council.---This was after I think.

Yes.---The, the way it was put to me, not before.

40 No, no, it's after, isn't it?---Yeah.

MR PARARAJASINGHAM: I think that - - -

THE COMMISSIONER: We're at cross purposes.

MR PARARAJASINGHAM: Yes, yes.

THE COMMISSIONER: Sorry.---That's all right.

This is after amalgamation?---Yeah. That would have had to have gone – look, it was a very short period of time, obviously. We’re talking about a matter of, what, 10 days or so since the amalgamation had occurred.

MR BUCHANAN: What difference did that make?---Sir, ultimately that decision, that would have had to have gone through a process whereby the general manager would have had to approve the application, sorry, approve any recommendation anyway.

10

Why are you bothering to negotiate with the developer through his advocate, Mr Hawatt, at all if you have no power?---Well, the - - -

If you can’t provide a solution why didn’t you tell Mr Hawatt, “Sorry, I can’t help you. Tell Mr Jabbour to go and talk to somebody else”?---It wasn’t only this particular application. I mean there were - - -

I’m not - - -?---I don’t know why.

20

Please, if you could answer my question.---I don't know why.

And then in the telephone conversation on 3 June at page 2 of Exhibit 228 you said in respect of Mr Jabbour’s application that “You know how I told you there might be some massaging involved,” and that you had been talking, that today had been about that.---Sorry, which one are we looking at, what - - -

Page 2.

30

THE COMMISSIONER: It’s back on the screen.

MR BUCHANAN: Exhibit 228.---Oh, yes. Sorry. Yeah.

And that’s about Mr Jabbour’s architect you’ve been meeting with. That’s on page 1. Why were you meeting with Mr Jabbour’s architect if it wasn’t to process Mr Jabbour’s application?---It was, it was business as usual, sir, as far as I’m concerned. Ultimately it was trying to find a solution.

Yes.---Yeah. So that’s why I met with them.

40

Yes. And the solution would – if the client of the advocate, Mr Jabbour, agreed to it – result in amended plans which would then be approved? ---Well, I had no power to approve the application. It would have had to have gone to a council meeting I believe at that, after that.

No officers’ reports anymore?---Oh, no, there were, yes.

Who wrote the officers’ report?---I would have been the signatory of it, yes.

Thank you. It was simply a lie by you to say that you had no influence on planning decisions after amalgamation, wasn't it?---No, I disagree with that.

Now, can I take you, please, to Exhibit 85, page 67 if you wouldn't mind, please. We're trying to proceed chronologically, Mr Stavis, and I'm taking you now to Wednesday, 8 June, 2016.---Sure. Yeah.

10 And you can see there a meeting in your calendar to meet with Mr Hawatt. Is that right?---Yes.

And there's no venue specified.---No, it doesn't appear so.

And can I just ask you if you can assist, you can keep that open there, and if I can take you back to volume 5, the SMS messages extracted from Mr Hawatt's phone. Page 309 of that extraction, item 713 to 716. Do you see that this is for 8 June. 713 is a text message to you from Mr Hawatt at 9.44am on 8 June, "Okay for 3.00pm." I'm sorry, I should take you back. 712, 7 June, 10.19pm from you to Mr Hawatt. Can you see item 712?  
20 ---Yes, sir.

And can you see that your message to Mr Hawatt is, "Hi, Mike. Are you free tomorrow at 3.00pm tomorrow to meet at the same café we did last time in Campsie"?---Yes.

You see that?---Yes, sir.

30 So had you met him previously at a café in Campsie?---I believe once before, yes.

After amalgamation?---I believe so, yes.

And why had you been meeting Mr Hawatt at a café at Campsie after amalgamation?---To the best of my recollection it was him who asked for that meeting to happen there at that café.

The first one?---Yes.

40 And what happened at that meeting?---He asked me for updates on a number of applications and - - -

You gave him the updates as well as you were able to?---As well as I was able to, from what I recall.

Did you take any files to the meeting?---Not that I can remember, no.

Now, can you recall, thinking now about this message on 7 June, why it was that you wanted to meet Mr Hawatt at the Campsie café the next day?---No, I can't, I'm sorry.

I don't want to take you through everything, but there had been previously at the bottom of page 308 the SMSs where there was going to be a meeting at Mr Hawatt's house, but that got, that didn't occur, then if I can take you to the top of page 309, item 710, on 6 June at 11.49 you sent a text to Mr Hawatt, "Hi, Mike. Can we catch up tomorrow?" And then Mr Hawatt said that wasn't a problem, and then the next day you said could you meet the day after, that is to say on 8 June. Do you see that? So does that assist you in recalling what it was that you were chasing Mr Hawatt for a meeting about?---No, I'm sorry.

And then on 8 June, after Mr Hawatt had agreed – this is item 713 – had agreed to a meeting at 3.00pm, you sent a text at 12.48pm on 8 June saying that you couldn't make the meeting and probably better make it the Saturday around 3.00pm at Mr Hawatt's place, and at item 715 at 12.50pm on 8 June Mr Hawatt agreed, 3.00pm Saturday, his place. And then you said, "Done." Do you see that exchange?---Yes, sir.

Do you remember what it was that you wanted to meet Mr Hawatt about at his place?---No, sorry.

Why would you have been wanting to meet Mr Hawatt in this series of texts that we've gone through? What's the sort of thing that you envisage you would have been wanting to meet with him about?---Probably the normal spirit of the way those meetings transpired, which was him had obviously made inquiries in the past about things or, and wanted updates about applications, so it's likely that it was, it was that sort of thing.

And what was it about – I withdraw that. Are you saying that therefore what's likely is that it was an update that couldn't be conveyed by phone or text?---No, I'm not saying that at all. I'm just saying that normally he liked to do things face-to-face, like, like I said before, he'd come to council plenty of times, making such inquiries.

Just that it seems that you're chasing him for a meeting in these texts. ---That, that was not unusual if it was me wanting to convey to him a meeting where discussions were held between myself, my staff or just myself and a proponent.

THE COMMISSIONER: Mr Stavis, the telephone discussion that was played and became Exhibit 228, my note is that that was on 3 June at 6.13pm, so it would have been conducted immediately before item 705 on page 308.---So what, what time was the transcript, sorry?

I've got, I noted 6.13pm.---Okay, yeah.

And in that, that was when you said to Mr Hawatt, "We've got to play differently," and you wanted a face-to-face meeting.---Sure.

Now, the rest of the text messages up until 8 June seems to be a series of attempting to arrange meetings and then for various reasons they're being cancelled or postponed.---Yes.

10 So does that mean the meeting where you arrange for 3.00pm Saturday at Mr Hawatt's place, you still wanted to discuss with him playing it differently, as described in, or not described, as you said in that telephone call on 3 June, which is now Exhibit 228?---I, I, I think that is a, it's likely, yes.

All right.---Yes.

MR BUCHANAN: So did you get an opportunity to sit down with Mr Hawatt and discuss how it was necessary to play it differently and how that might be done?---I believe so but I'm not exactly sure when.  
20

Do you remember where you were when you had that discussion with him?  
---It, it was either in the council offices that I spoke about earlier or at maybe that café.

The Campsie café?---Yeah.

Yes. And are you saying, do you have a recollection of a conversation with Mr Hawatt in which you had the foreshadowed discussion about the need to play it differently?---Not specifically about that, no.  
30

Can you tell us - - -?---Not that I can recall.

I'll just ask a straight question. Did you talk face-to-face with Mr Hawatt about the need to play it differently?---I, I don't know whether I used those words but I did have the discussion at some point, yes.

40 And what was said, what was said in that discussion?---I just can't recall exactly what was said, but I, I made it clear, I remember at around that time to him, and I'm not sure where it was, but, that the new council was different than the old council, right, so there was a far more, a greater emphasis placed on prescriptive standards under the new council. So I remember talking about those sorts of things and then I also remember having discussion about applications that he had raised with me previously. But it was, sorry, my recollection isn't detailed in terms of what exactly we spoke about but I remember that was the tone.

None of that is information Mr Hawatt didn't already have, is it?---I'm not sure because, whether, obviously because there was, as the Commission

said, it's, and I said, it's likely that I was chasing him to tell him that that was the philosophy. So, I'm not sure if he knew about that before.

10 You see, what I want to suggest to you is the more likely thing that was going on was that the landscape had indeed changed. You knew that, Mr Hawatt knew that. When you said to Mr Hawatt, "We need to play it differently", and you wanted to have a face-to-face meeting with him and then chased him over a number of days for a face-to-face meeting, was that you needed to discuss with him, in your opinion, how you would play it differently. You needed to strategise or devise tactics as to how the two of you or three of you, if you include Mr Azzi, were going to play it differently.---I, I don't recall that at all, no.

20 Well, that's a logical construction to place on the fact that, from what you told us of what you said you said to Mr Hawatt when you were with him face to face, you didn't give him anything he didn't already know. So, there must have been something else that was said. We know that you thought that you and he and Mr Azzi needed to play it differently, so doesn't it necessarily mean that you wanted to talk to him, and ultimately did, about how you would play it differently?---As I sit here before you, no. I, that's not the way I recall it. No. I don't remember that.

30 Can I ask you please to go to item 721 and 723 on page 309 of volume 5. Can you see that 721 is a text message from Mr Hawatt to you on the 10<sup>th</sup> of June at 12.27pm, "Hi Spiro. Can pass by us (myself and Joseph) re legal advice for child care at new Canterbury Road. Thanks, Michael." And then 723, from you to Mr Hawatt at 5.39pm on that day, "Mike, it is the opinion of our lawyers that the development application seeking consent for the use of the ground floor premises as a 'child care centre' is a lawful application, and if consent is granted to this application it would not render the residential component of the existing consent prohibited development. So he can proceed to address the other issues. Cheers." Do you see that? ---Yes, yes, sir.

You were providing Mr Hawatt with an extract from a legal advice provided to council by council's lawyers, is that right?---I was providing the gist of what the advice was, yes.

40 Was the advice from council's lawyers?---That I can't recall, I'm sorry.

You say "our lawyers".---It must have been if it was, yes.

Pikes and Verekers lawyers?---They were the main ones that we consulted normally.

And their client was Bankstown-Canterbury Council, the amalgamated council?---I'm not sure.

Well, their client was the council.---Council, yes.

And it was about an application by Mr Jabbour, is that right?

THE COMMISSIONER: It might be Mr Jacob.

MR BUCHANAN: I'm sorry. Mr Joseph. I apologise.

THE COMMISSIONER: Yes, Joseph.

10

MR BUCHANAN: Mr Jacob. Joseph Jacob.---Yeah. Yes, yes, sir.

Now, had you during your career at Canterbury Council provided Mr Hawatt or Mr Azzi with the gist of other legal opinions which had been provided to council by council's lawyers?---It's likely, yes.

And on this occasion, you were providing the gist of the advice to somebody who was not council.---That's fair.

20

Did you have authority to disclose that the gist of the lawyer's advice to council to third parties?---I, I can't recall but I know that the advice was conveyed to the proponent because, consistently, from the time of when they, I believe they lodged the application, because we had raised it, if not with the proponent, we had raised it, certainly meetings that I was part to with their architect and planner I guess at the time. As far as the third party, getting permission, I, it's likely that I didn't, no. But I didn't, I don't believe I handed over a document, it was just giving, giving the advice that it, it, you know, our concerns were, obviously, that there was a, an issue potentially with permissibility and we conveyed the results of that to him, to

30

Mr Hawatt, and, and also to the proponent.  
So when it was provided to the proponent was a copy sent to the proponent?---That I can't recall, I'm sorry.

Was a copy provided to Mr Hawatt?---I don't believe so.

Did anyone send a copy to Mr Hawatt as the agent for Mr Joseph?---From, from Mr Joseph you mean or from, from council?

40

Well, Joseph Jacob. Did anyone send it to Mr Hawatt as the agent for Mr Jacob?---I can't recall that, no.

So do be patient with me, if you wouldn't mind.---Sure.

I'm trying to work out why Mr Hawatt gets an insight into the advice provided to council. It was because he was with you acting as the advocate for Mr Jacob. Is that right?---Not me. He, he was definitely acting as an advocate for Mr Jacob.

Yes, but only to you. He wasn't writing letters on behalf of Mr Jacob to council, was he?---No, that's right.

That's what I meant by with you.---Sure.

With you, he was the advocate for Mr Jacob.---Yes.

10 And for that reason you provided the gist of the advice to Mr Hawatt?  
---Yes, sir.

Can I take you then to Exhibit 85, you still have it there, it's the calendar meetings folder, page 75, please.---Sorry, what exhibit was it?

It's, sorry, it's the thin folder.---Volume 30?

The calendar meetings.---Yes, yes.

20 Exhibit 85.---Yes.

And it's the last leaf in the exhibit.---Yes, sir.

And do you see that that's a calendar meeting entry for a meeting by you with Mr Hawatt on 21 June, 2016, set to commence at 9.00am?---Yes, sir.

No venue is specified.---Sorry, can I just say - - -

Yes.---Oh, 9 o'clock, yes, sorry, yes.

30 That's all right.---That's correct, that's correct.

Now, excuse me a moment. If I could then take you to the text messages on page 312 of volume 5. Do you see item 764?---Yes, sir.

It's a text from you to Mr Hawatt on 21 June at 8.50am. "Running 15 minutes late." Do you see that?---Yes, sir.

40 That would indicate, wouldn't it, that the venue for the meeting was off council premises?---Maybe not. It may have been that I was outside of council and heading back to council. I just am not sure.

Do you remember what that meeting was about?---No, sir.

Just excuse me a moment, please. Could the witness be shown volume 10 in Exhibit 52, please. If I can ask you to go to page 119 in that volume. Can you see that that appears to be a request for you to contact Mr Faker, Mr Assad Faker, on his mobile, a request you receive from a member of

your staff on 19 May, 2016 about 15-23 Homer Street, Earlwood?---Yes, sir.

You had indicated to Mr Hawatt, however, that Homer Street had essentially been put to bed before this date, hadn't you?---On from what you showed me, took me to before, yes, yes.

You heard you saying that in a telephone conversation with Mr Hawatt?  
---Yes, sir.

10

What was the stage that that matter was at, 15-23 Homer Street, Earlwood planning proposal, as at 19 May, do you recall?---I believe it was when the, I guess the amended package had been received from council and was about to be placed on public exhibition I think from memory. As I sit here today that's my best recollection.

Well, it was put on public exhibition, however, before amalgamation because remember you had an influence over the materials that were put on exhibition.---Sure. Yeah. Sorry, I got the dates wrong.

20

That's okay.---Yeah.

So this must have been after public exhibition?---Well, it was only a week after the amalgamation that this meeting had occurred.

Yes.---Yeah, sorry, what as your question again?

30

Well, I'm just trying to ascertain what stage the Homer Street planning proposal was at by the time Mr Faker attempted to contact you on 19 May, 2016 apparently about it.---I, I, as I said before, my best recollection was that it was in the process of, or it was either on exhibition or in the process of being put on exhibition.

Well, it couldn't have been put on the process of, been in the process of being put on exhibition. We've just established that because amalgamation was on 12 May and you had as director of city planning influenced what materials were put on exhibition. Do you recall that?---I do but I just don't recall the date it was placed on exhibition. That's what I'm getting at.

40

If you'd excuse me at moment. Yes, I think I owe you an apology. Just for the record at page 116 in volume 10 it's clear that the discussion between you and Mitchell Noble about using the JBA study to satisfy the departmental condition was as you can see there in the middle of that page on 18 May.---Yes, sir.

Can I ask you to have a look at Exhibit 210, please. Excuse me a moment, I'll just get the right reference. 207, my mistake. Part of Exhibit 207 is an extract from one of your exercise books.---Yes, sir. Looks like that.

THE COMMISSIONER: Sorry, I'm getting a bit confused with the exhibit.

MR BUCHANAN: I apologise, I was apparently right in the first place. It's a separate exhibit, 210. The page is on the screen in front of you and can you see that the first asterisked item is 13 Homer Street, Assad?---Yes, sir.

10 Was that an indication that you had a meeting or planned to have a meeting with Assad Faker about Homer Street?---It's a possibility. Or I was, had some sort of discussion or phone call and it was me scribbling to make, to remind me to follow up but, that sometimes happened as well.

Right. Just think about this if you wouldn't mind. There was a call, as we've seen, one of your staff sent through an email to indicate on the 19<sup>th</sup> of May, 2016, essentially asking you to call Mr Faker on a phone number. ---Yes.

20 Do you have a recollection of a meeting with Mr Faker between amalgamation and the time when you finished up at council?---Not that I can recall, no.

Can I just test what you mean by that? Do you mean you don't think you did have a meeting and you certainly can't recall one or do you don't know, you might have had one but you can't recall?---Probably the latter.

30 Do you remember being under any pressure in relation to Homer Street planning proposal between the time of amalgamation and the time you left? ---Not that I can recall, other than the enquiries that I had got via Mr Hawatt that we, you took me to previously. I think it was the text message that you showed me but I, I don't recall any pressure after because after the amalgamation, that application, as I said before, was already on, or about to be on public exhibition.

40 And thinking about it and the stage you were at and the situation you were in after amalgamation, was there a reason why the JBA report needed to be included in the materials put on exhibition in relation to Homer Street rather than the report of the consultant retained by council pursuant to the departmental condition?---No. I believe that's advice that I got from Mitchell Noble at the time.

Yes, you told us that last time. What I'm trying to ascertain now is - - -?  
---Sure.

- - - this is after amalgamation and Mr Hawatt is no longer a councillor.  
---Sure.

Now, he had previously been, I'll use a neutral term, talking with you about this particular planning proposal on Mr Assad Faker's behalf.---Yes, sir.

Is that right?---Yes, sir.

10 But he was no longer a councillor as at 12 May, so why did you need to go through after 12 May with the substitution for the report commissioned by council by a report commissioned by the proponent, so far as the materials on exhibition were concerned?---No reason other than following its natural course of progressing the application.

But what was natural about it? There was nothing natural about it.---Well, we had received the report and on advice from my staff at the time, namely Mitchell Noble, there was no reason why we couldn't put it on exhibition, so from my perspective it was just - - -

20 But you didn't tell Mr Noble what a ridiculous suggestion, you mean to say we wouldn't put on exhibition the report that council commissioned and instead put on a proponent's report?---No, sir, I didn't say that to him, no.

Why not? You were the director.---Well - - -

You seem to be blaming him.---I'm not blaming him. He had, as I've said before, he had more experience, he'd worked in the department previously, so I naturally took his advice, that was possible.

30 You were the director of planning and you thought it was quite reasonable, did you, to substitute for the report commissioned by council in the materials put on exhibition, the report commissioned by the proponent?  
---Ah - - -

Leave aside what advice you were given.---Yeah.

You thought as director of city planning that was a reasonable thing to do?  
---Yes, I did, but I, it's not on the basis of anything other than an advice and also the Department of Planning themselves were silent in terms of what report.

40 This wasn't a case where you were under influence or pressure from Mr Hawatt at all?---Not in respect of that issue, no.

Completely your decision?---I accept responsibility as the director, yes.

Can I ask you about, if I could take you to it, Exhibit 52, volume 10, page 124. If I could ask you to have a look in the middle of the page, you see that on 26 May at 8.07pm Mr Hawatt emailed you, "What's the progress on child care for Joseph Jacob, New Canterbury Road, Homer Street, Campsie

Master Plan, Sam Harb,” H-a-r-b, “Lakemba. Thanks. PS, congratulation on your appointment. Signed Michael.” Do you see that?---Yes, sir.

And within hours at 8.38pm on 26 May, this is at the top of page 124, you replied saying, “Hi, Michael. Brighton Avenue, Homer Street and Croydon Avenue will be sent to the department this week, Monday at the latest.” And then you gave him some information about the Joseph Jacob application as well as where you were at with the Campsie Master Plan. Do you see that?---Yes, sir.

10

Now, can I ask you this. Can you see the carbon copy line on that email? It starts with Mitchell Noble.---Yes, sir.

Why did you copy Mr Noble into that correspondence?---Because that was his department and wanted him, to keep him in the loop.

Why did he need to be kept in the loop in respect of communications you were having with someone who was not a member of council, was not the proponent, was not a regulator?---Just for - - -

20

Namely, Mr Hawatt.---I mean, just to keep him in the loop. I don't know why - - -

But why should he need to be kept in the loop about your communications with Mr Hawatt?---So we know that I'd had discussions or that, what sort of communication I had with Mr Hawatt.

30

Yes, you've explained that to us. Why did he need to be kept apprised of your communications with Mr Hawatt?---Well, he, he knew that we, he, that Mr Hawatt had made enquiries in the past on certain applications, certainly with Homer Street.

How did he know that?---Because I would have told him. He would have seen previous emails while Mr Hawatt was a councillor and I would have cc'd him in, no doubt, in emails, with that communication. So, for those reasons.

40

But why after amalgamation, when Mr Hawatt is no longer a councillor, did Mr Noble need to know what communications you were having with Mr Hawatt about this matter?---I, can't answer that. I don't know why. Like, I, for me, it was just business as usual.

And can I ask you about the second person who's cc'd in, as to who that was? It looks like A-l-i-c-e-p.---Yes. That would have been Alice Pettini. She was a, a, a DA assessment officer at, at, at council.

Thank you. Now, at page 126, I think email correspondence starts at page 127, but can you see that towards the, over halfway down, a bit over

halfway down, there's an email from you to Mitchell Noble on the 26<sup>th</sup> of May at 7.23pm, content of which was, "There's three to be done?" Mr Noble responds at 10.12pm, "All three tomorrow? I thought we agreed on Brighton Avenue and Homer Street by the end of this week. I'll try my best to get Croydon Street out tomorrow too." And this is after Mr Hawatt's email, you said to Mr Noble at 10.33pm, "Please Mitchell, needs to happen." You were placing pressure on Mr Noble there to get these reports out, including Homer Street, is that right?---Yeah. Only because I recall that we had given, that, that application had been in for an exorbitant amount of time and that we had given a commitment to the applicant and also, you know, I, I, I, I, you know, I'm happy to concede that it was, you know, Michael Hawatt making those enquiries about the applicant.

Excuse me a moment. We'll just bring up something on the screen in a moment but can I just ask you now to think about Ziad Chanine and Marwan Chanine.---Sure.

The DA for 212-218 Canterbury Road was refused. That's apparent from the notice of determination which is on the screen in front of you which is in volume 28 at page 273. Can you see that?---Yeah, I can see it on the screen.

Now, the other one, that is to say for 220-222 Canterbury Road and 4 Close Street had lapsed. In August, 2016 you left council. Is that right?---That sounds about right.

Can I ask you, please, about a couple of texts. If we can go to page 278, sorry, 280 in volume 28. You used the WhatsApp app from time to time, didn't you on your phone?---Probably. Yes, yes, I did.

And did you use it from time to time in communication – oh, I see, iMessage. Thank you very much. Appreciate that correction. You sent iMessages from time to time?---Sorry, I don't know what an iMessage is I'm sorry. I'm a bit ignorant.

I see. This material that's on the screen in front of you now which is volume 28, page 280 is an Internet message that was extracted from your mobile phone.---Right. That's an email sorry or?

No, an Internet message.---Right. Okay.

Now, although you might not be aware of the precise mechanics, the message was sent by you, an Internet message via an app called iMessage. ---Okay.

Do you understand?---Yes.

Now, can you have a look, please, at the messages which are recorded against the date 15 November, 2016, 12.56pm, outgoing. So it's you're sending this message. Do you see that?---Yes, sir.

And you have sent it to a person who on your phone is registered by you as Ziad Chanine.---Okay. Yes.

10 You did assign names to contacts on your phone from time to time?---And on occasion made mistakes but I accept that that its more likely that it's not. It probably was. I don't recognise his number I'm sorry.

No. But you had plenty of contact with Ziad and Marwan Chanine, didn't you?---Yes, yes.

And so they would be people who would have been contacts on your phone?---Most likely, yes.

20 So you asked him to call you on 15 November, 2016. This is a fair while after you'd left council. Do you see that?---I do, yes.

And then you get a reply incoming from Ziad Chanine, "Okay. Phone five mins." M-i-n-s.---Yeah.

And then you say, "Can I call you later?" This is at 1.01pm.---Yes.

And then he says, "Okay." Do you see that?---Yes, sir.

30 And then at 6.32pm, page 278 in volume 28 on page – you see the last message there?---Yes, sir.

It's a phone call to Ziad Chanine at 6.32pm. Do you see that?---Yes, sir.

What was the – and according to the duration data, that call lasted 5 minutes and 22 seconds.---Yeah.

40 Why were you calling Mr Ziad Chanine and asking him to call you?---There was a very short period of time from when I had ultimately left the council and started employment with my current employer and I don't know whether this is actually the case, I'll have to check the dates, but he was, prior me starting there he was an architect for a project that he had been working on with my current employer, so I'm not sure if it was in reference to that, 'cause I certainly did have discussions with him when I did start my new employment and even met with him about that, that approval that had been granted. It was in a different local government area.

When did you start with your current employer?---That's what I, I can't be 100 per cent. It was around November sometime.

THE COMMISSIONER: And, sorry, who is your current employer?  
---Do I have to say? I mean I'm happy to say it but it's an aged care facility,  
yeah.

Right.

MR BUCHANAN: Can I take you back to volume 5, please. If we start at  
page 258, that's the coversheet for the extraction report, and it commences,  
the first item is on 21 November, 2014, and if you go to page 312 where the  
10 report concludes, the last item is on 21 June, 2016. Do you see those two  
dates?---Um - - -

THE COMMISSIONER: Sorry, could you go through the pages again?

THE WITNESS: Yeah.

MR BUCHANAN: At page 259 in volume 5, and the first item is on 21  
November, 2014.

20 THE COMMISSIONER: Ah hmm.

MR BUCHANAN: The last item is on page 312, the last item is item 770  
on 21 June, 2016. Do you see those two dates, the bracket of dates?---Yeah,  
the last date I have is 18/6, or sorry, no, 21/6, item 770 is the last.

Yes.---Yes.

770?---Yes.

30 That's on page 312 of volume 5. You see that?---Yes, sir.

Now, we all know that maths is not my strong point, but it would appear  
there are 770 SMSs represented in that report.---There's certainly a lot, yes.

To the extent that it could be regarded as complete – and I can't give the  
slightest undertaking that it is complete – but what's set out in that report  
shows 37 texts during your recruitment and before you actually started  
work. Do you understand that? There's 37.---I take your word for it, yes.

40 And, well, all you need to do is go to item 37, on page 261, and can you see  
there's a gap in this report? It appears that you never sent a text or received  
a text after Christmas in 2014 until March 2015.---Sure.

So plainly the report is incomplete. You'd accept that?---Probably, yes.

Well, are you telling us you sent no texts at all in the period Boxing Day  
until 15 March, 2015?---Ah - - -

You would have sent texts, wouldn't you?---Probably, sir, yes.

And you would have received texts too, wouldn't you?---Most likely, yes.

Yes. So there's a gap in the report.---Yes.

I should retract that. What I failed to take into account, Mr Stavis, and I apologise for this, is that this is texts received and sent that are recorded on Mr Hawatt's phone.---Oh, okay.

10

I apologise for overlooking that.---That's okay.

But they are between you and Mr Hawatt.---Yes.

You understand that?---Yes, sir.

So 770 texts between you and Mr Hawatt in that time, November 2014 to June 2016. Do you see that?---Yes, sir.

20 37 between the two of you during recruitment and before you commenced work and, if my maths are right, 733 after you started work as director of city planning.---Okay, yeah.

633 texts between 2 March, 2015 and 11 May, 2016. 11 May is the day before amalgamation.---Sure.

So that's 633 whilst you were DCP before amalgamation occurred. 100 texts between 12 May, 2016 – this is after amalgamation was proclaimed – and 21 June, 2016, when that report ends. Does that surprise you at all?

30 The, I'm going to suggest, very large number of text message communications between you and Mr Hawatt in those periods?---No, because he was certainly – as we've seen before in the reports that were prepared – he was, him and Pierre Azzi were the most, I guess, active when it came to council-related matters.

I apologise but can we resume this line of territory tomorrow?---Sure.

Commissioner, if we could rise now.

40 THE COMMISSIONER: Yes.

MR BUCHANAN: Oh, yes, and the time we're resuming and sitting tomorrow?

THE COMMISSIONER: 9.30 through to 4.30. All right. We'll adjourn until tomorrow morning at 9.30.

**THE WITNESS STOOD DOWN**

**[3.59pm]**

**AT 3.59PM THE MATTER WAS ADJOURNED ACCORDINGLY**

**[3.59pm]**