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INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC  
COMMISSIONER

PUBLIC HEARING

OPERATION DASHA

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 9 OCTOBER, 2018

AT 9.30AM

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MR BUCHANAN: No administrative matters of which I'm informed, Commissioner.

THE COMMISSIONER: All right.

MR WOODS: Commissioner, my name is Woods. I seek leave to appear for Mr Hawatt.

10 THE COMMISSIONER: Right, Mr Woods. Now, Mr Drewett isn't available today?

MR WOODS: That's right.

THE COMMISSIONER: All right. And it's Mr Woods.

MR WOODS: Woods, that's right.

THE COMMISSIONER: Right. Thank you.

20 MR WOODS: Thank you.

THE COMMISSIONER: All right. Mr Stavis.

MR BUCHANAN: Commissioner. Mr Stavis, can I take you back to some evidence that you gave earlier in these proceedings on 3 August, 2018, transcript page 3502, commencing at line 12, which is on the screen in front of you. We might just enlarge it if we can, please. Thank you. I asked you this. “When you had such meetings with development proponents, whether with Mr Hawatt or Mr Azzi or not, would it be fair to characterise those meetings as occasions when you and the proponent were strategising as to how to, as to how best to progress the proponent’s project, be it an application or a planning proposal?” You said, “I wouldn’t use the word strategise. I think I was there to assist and to try and provide information as best I could. There were certainly advices or recommendations that I made, yeah.” Question, “What in your mind is the difference between coming up with a solution and proposing it to the developer and, on the other hand, strategising with the developer as to how best to progress his application or proposal? What’s the difference between the two?” Answer, “I think coming up with a solution, it’s an amicable thing in the sense that you try to balance I guess the, the wants of the applicant and, and offset against the impacts on adjoining properties and the like and the public in general. I don’t know whether I’d use the word strategizing. I mean, strategising is obviously by virtue of its meaning is, is to actually try and have a definite way of progressing an application.” Do you recall giving that evidence? ---I do, yes.

Can I take you now to Exhibit 228, the transcript of the telephone conversation that you had with Mr Hawatt on 3 June, 2016, commencing at 6.13 in the evening, and can I take you to page 7 of that transcript. We’ll have it up on the screen in a moment. There you are. The second paragraph attributed to you reads, “All good, my friend, mate, oh, the one that, the ones that gonna give us a lot of grief I think, well, short-term pain for long-term gain, is we need to strategise about Joe’s one on the corner, the big one.” My first question is, who was Joe?---I’m not sure if it was that big one on Canterbury Road, sorry, on, in the Campsie town centre, I’m not sure exactly if that was the one that I was referring to.

And what was the, who was the developer there?---Oh, if, if it’s the one that I’m thinking of it would be Joe Alha from, I don’t know the company’s name.

And certainly he was a person whose applications Mr Hawatt discussed with you from time to time?---Yes.

Now, can I ask you just some questions about that passage that is attributed to you there that I have read out on page 7 of the transcript of Exhibit 228. When you say, “The ones that’s gonna give us a lot of grief.” When you say “us”, you were referring to you and Mr Hawatt, is that fair to say?---I, I

don't, I don't think so. I think I was referring to just council in general. But I can see why that would be interpreted that way but I, I don't recall the, the conversation to be perfectly honest with you.

Why should that DA have given council a lot of grief?---Because what he was proposing was out of the ordinary in terms of, from what I recall it was a very big planning proposal. Big in terms of height and so forth.

10 So, extensive non-compliances with planning controls?---Yes, existing planning controls, yes.

Well, there's no need for council to have suffered any grief. All that you had to do was reject the application. No problem for council.---Yeah, look, I, I accept that.

But grief there would have been for Mr Alha and grief there would have been for Mr Hawatt as a result of refusing the application. That would be fair, wouldn't it?---I accept that, yes.

20 And you were aligning yourself in that conversation, as you had on many other occasions, with Mr Hawatt. Aligning your interest with the interest of Mr Hawatt.---No, look, in, in, in that regard I, I, don't, I don't view it that way. I, there was a, as massive push for us to prepare a master plan for that whole Campsie town centre, and as I think I've said before, the, we were in the process of, we had commissioned external consultants to do that. So, and the initial feedback that we got at the time from the consultants was to set a, a set of parameters I guess, to examine a set of parameters that the proposal, as best as I can recall it at this point in time, would have exceeded those initial findings.

30 But the statement you made, "The one that's gonna give us a lot of grief," was a statement that you made to Mr Hawatt on that occasion, which was a reference to you and to Mr Hawatt and to the developer, Mr Alha, wasn't it?---I accept that.

Now, what was the grief that you were referring to?---I don't know what, I think probably in reference to just the sense that, what, what he was proposing was out of the ordinary. I can't define it any other way, to be honest with you.

40 Well, it looks as if, in conversing with Mr Hawatt on that occasion, you made the statement, "The one that's gonna give us a lot of grief I think." And then you use the word "well" and sort of re-expressed the idea as short-term pain for long-term gain. Do you accept that that's what you did in that sentence? You said it's not really just grief, it might be grief in the first instance but a good outcome in the long term?---Provided the outcome was something that we were looking at in, in keeping with the whole masterplan for that town centre, yeah, I accept that.

Well, are you saying that it might had to have been a rejection of the DA or some other result that would have been initially unfavourable to the applicant but ultimately with a favourable outcome for the applicant? Is that the idea you're expressing?---I, amongst other ideas, maybe it was a, a case of going back to them and saying that what they're proposing was unacceptable and I, I believe in, in a number of instances, we did that.

10 And then you said, "We need to strategise about Joe's one on the corner, the big one." Do you accept that?---I, I do.

So contrary to the evidence that you gave us on 3 August, you did indeed strategise with Mr Hawatt about applications and proposals for selected developers with a view to achieving outcomes that would be favourable for those developers, didn't you?---It was a poor choice of word in that conversation but I accept - - -

20 It was a poor choice of words because of the admission you made when you used the word.---I, I didn't mean it that way.

Well, that's what you did though, wasn't it? You were proposing, look, we're going to have to nut out a strategy as to how we're going to get Mr Alha what he wants, and it might involve a bit of short-term pain for him in the first instance. That's what you were saying, wasn't it?---No. I didn't, I didn't mean it in that context, sir, I'm sorry.

30 Well, can you tell us what you meant by, "We need to strategise about Joe's one on the corner, the big one?"---As I'm saying, I think that was a poor choice of words. What I meant was that we needed to, mainly he, the applicant needed to adhere and wait for the findings of our reports because there was no, in my opinion there was no justification at that point in time for what he was proposing and we were in the middle of preparing a body of work that had progressed. So I guess that, that, that's what I meant, but obviously I accept that's a poor choice of words.

40 The sentence, the passage there that I've drawn your attention to with its reference to the plural pronouns "us" and "we" is a clear indication that you are explaining to Mr Hawatt what you think you and he need to do in order to achieve ultimately an outcome that would be favourable for this particular developer, isn't it?---In reference to that I, Mr Hawatt had made a number of representations on behalf of Joe Alha and I was trying to, and I knew that he had, obviously being an advocate, that he needed, it needed to be reinforced to the applicant, the issues that we had with that proposal.

And what was the strategy that the applicant would be provided with or what - - -?---Well - - -

- - - was the strategy that you and Mr Hawatt were going to adopt?---We, I actually expressed my views to the proponent himself actually and his representatives, his consultants, and the strategy was, I guess was to wait for at least the main findings of our town centre review and for them to obviously adhere to those findings.

10 When you say adhere to those findings, are you saying that those findings if implemented would be likely to have accommodated more of the bulk of the development proposed by Mr Alha than the existing controls?---That's correct.

When was the, what was the estimated date of arrival of the report?---Oh, that I can't tell you, I'm sorry.

Was it to be 2016?---It may have been. I don't recall.

Are you talking about the Campsie town centre - - -?---Yeah.

20 - - - study?---Yes, sir.

Excuse me a moment. I'd like to ask you some more questions now to just explore the nature of your relationship with Mr Hawatt and Mr Azzi, Mr Hawatt in particular. Can I ask you about some text messages in volume 5 of Exhibit 52 at page 227, and can I direct your attention to item 75, which is a text from you to Mr Hawatt on the 21<sup>st</sup> of April, 2016, at 9.43pm. "Hi Mike, miss your advice/guidance. Too much happening. When are you back? Spiro." At the time that you sent that text, was Mr Hawatt away from Sydney or perhaps away from Australia?---Sorry - - -

30 If I can take you to item 76, it's a text from Mr Hawatt to you, also on the 21<sup>st</sup> of April, 2016, replying to the text I've drawn your attention to but at 9.44pm, and the message reads, "Back on Monday." Do you see that? ---Yes, sir.

So it looks as if Mr Hawatt was away from Sydney at least at the time on the 21<sup>st</sup> of April, 2016, when you sent that text.---I, I'm not sure but I, it's likely, yeah.

40 Why did you send him the text numbered 75 at 9.43pm?---In, in all honesty, as I sit here, I, I don't know. I can't recall.

Was the relationship you had with Mr Hawatt in April 2016 one such that you did feel that you depended upon his advice and guidance?---He was certainly always providing me with advice but I, I can't honestly say how I felt at the time.

You went on to say, "Too much happening," which indicates that you felt under a degree of pressure at council in your work at the time.---That's, that's possible, yeah.

And you felt you needed his assistance as to how to deal with some of that matters that you were being required to deal with. Is that a fair construction to place upon that text message?---It's possible, yes.

10 And then item 77 is a text from you to Mr Hawatt, still on 21 April, 2016 but now at 9.45pm, and you responded to his message back on Monday by saying, "Thank God. Can't wait. Need your advice, mate, and direction. Cheers." Why did you send that?---I, honestly, I, I don't recall.

But does it indicate the nature of the relationship you had at least in part with Mr Hawatt in April 2016 that you needed his advice and direction in order to feel that you were doing your job in a way that you were happy with?---In part. I think that's a fair comment, yes.

20 Did you sometimes find that you had difficulties doing the job of director of city planning?---No.

You hadn't held a management position, let alone a director's position, before March 2015, had you?---Not in local government, no.

And you hadn't held a director's position anywhere.---Yes, I did. I ran a private practice and I was a director of the company.

How many staff?---At some point we had about five I think, from memory.

30 This was a far more politically charged atmosphere in terms of the demands being made by the various interests affected by the decisions made in your division, wasn't it?---Um - - -

The demands made by the interests affected by the decisions made in your division. It was politically charged, wasn't it?---I accept that.

And you had difficulty coping with that from time to time, didn't you?---I, I accept that.

40 And whether the advice you received from Mr Hawatt was correct or not, or whether the guidance you received from him was correct or not, it provided you with a staff to lean upon in doing the work you did.---Not necessarily in terms of the work that I did. It was more along the environment of, I guess, the volatile atmosphere from a political sense because we were often liaising with councillors as directors, yeah.

But you were also dealing with developers whose financial interests were affected by the decisions being made, or not made as the case may be, is that right?---That's correct.

And you were also dealing with the interests of parties affected by the determination or not of applications and planning proposals.---That's correct.

You were also dealing with Mr Montague.---That's, that's correct.

10

And you received pressure from him from time to time.---That's a fair comment.

And was it the case that sometimes it was all a bit much for you and you relied upon Mr Hawatt or Mr Azzi to help you work out how to deal with it?---And, and also Mr Montague.

Did you actually take Mr Montague's – sorry, I withdraw that. Did you actually seek Mr Montague's advice from time to time?---Yes.

20

Excuse me a moment. Can I ask you to go, still in volume 5, to page 286. And can I take you to item 367 on page 286. We're going forward now to 16 October, 2015. Do you see there that you said to Mr Hawatt at 6.53pm, "Hi, Mike. Is there any way I can get my contract signed before December? Why can't it happen now? I'm worried about amalgamations, et cetera. I haven't spoken to Jim. What do you think?" Is that text message self-explanatory? Do I need to ask you why you sent it?  
---No, sir. Well - - -

30

It is self-explanatory, is it? You were worried?---I, I was worried, yes, because we had been promised by Mr Montague, best of my recollection, that the contracts, and I believe, and I could be wrong but I believe it was around the time where Mr Montague was aligning the contracts across the three directorships.

THE COMMISSIONER: Sorry, what do you mean by that?---There were certain discrepancies.

40

What, in pay and conditions?---I'm not sure about pay but conditions, yeah, I believe.

MR BUCHANAN: And you say "we". Do you mean you and the other two directors?---Yeah, I mean, I remember Andy Sammut expressed at the time some, you know, reservation about how long it was taking.

But what was the promise or indication that you'd received from Mr Montague?---Look, I'm not sure about the dates – this is where I'm a bit unclear in terms of that date – but there was the contracts that I think that's

referring to are the contracts that ultimately went up to a council meeting, which basically set the, I think I was offered another four years or five years, whatever it was, because it was a discrepancy between initially the contract that I was offered, which was only the one year I think, from memory, and the directors were into a five-year contract I think, from memory, so that had to be adjusted. And also there were some pay increases I think, from memory, around that time as well.

10 So a significant discrepancy was the fact that you were on a short-term contract whereas the other directors were on a five-year contract.---Yeah. I think that's fair.

And you wanted your one-year contract to be renewed for at least another four years, if not five.---It, it, at that point in time, yes.

20 Now, why did you send that text message to Mr Hawatt rather than, say, to Mr Montague?---Well, I had expressed it to Mr Montague. Sorry, not in text, obviously, but there, as best I can recall as I sit here today, I recall that I had conversations with Mr Montague and, and also prior conversations with other councillors about, about the contracts.

Councillors?---Yeah, yeah. Like, I just - - -

Who were they?---I think Mr Azzi was one apart from Mr Hawatt. So, I guess I just expressing, just flowing on from those conversations, I guess, that we had had previously.

30 But you were asking Mr Hawatt to intervene with Mr Montague in this text message, weren't you?---Or, or make inquiries, I think.

Well, no, you were asking him not to make inquiries but to achieve an outcome for you, to get your contract signed before December, asking him why it can't be arranged to occur now, and you went on to say, "I have not spoken to Jim."---Well, at that point in time I probably hadn't or at, when I sent the SMS.

40 So, why were you asking Mr Hawatt to achieve an outcome favourable to you in relation to your employment at council without having spoken to the general manager?---No, I had spoken to the GM prior to that. But I'm just - - -

Well, you say here, "I haven't spoken to Jim."---At that point in time, at that, on that day I probably - - -

So why are you trying to get a favourable outcome for you from Mr Hawatt in relation to your employment without having spoken to the general manager?---Well, because I knew that Mr Hawatt I guess had some influence in the sense that over the, over, over Jim, Mr Montague, and based

on previous conversations that I had prior to that text with Mr Montague and, and Mr Hawatt and Mr Azzi about the contracts.

Isn't it the case that you thought that if you needed to achieve an outcome favourable to you in relation to your employment conditions, then the person to speak to was Michael Hawatt because he could arrange it to be done by Mr Montague and that would be the fastest way of achieving that outcome?---No, no. I don't believe that.

10 That's certainly consistent, however, isn't it, with that text message?---No, I don't accept that.

Well, let's go on. There's a response at 6.55pm. This is item 368 on page 286 of volume 5, "Okay, I will follow up with Jim when I get back." So that sounds as if Mr Hawatt is away at that stage. Then item 369, a message from you the same day at 6.59pm, "Thanks, mate. You are a true gentleman. There's no reason why I can't sign now to extend and to align with the other directors. Please don't mention I said anything. I'm just worried, that's all." Do you see that?---Yes, sir.

20

You weren't intending to speak to Mr Montague, were you?---I, I had already spoke to Mr Montague and Mr Montague was the one who actually approached me, from the best, best that I can recall, to advise me that that's what he was intending on doing.

Why did you say to Mr Hawatt, "I haven't spoken to Jim"?---Because probably when I sent it on that day, I didn't.

30 And five minutes later you said, "Please don't mention I said anything." I assume that is a reference to Jim Montague, please don't mention to Jim Montague that I said anything. Is that fair to say?---Yes, sir.

You were getting Mr Hawatt to achieve the outcome you needed through his influence with the general manager, weren't you?---In part.

Or doing your best to, anyway.---I was expressing my frustrations at the fact that we had been promised, probably a month or so prior to that, from memory, took around about that long, for the, the decision to actually change the conditions of employment and it hadn't happened.

40

Excuse me a moment. And I take you to the next page in volume 5, at page 287, and can you see at item 379, still on the 26<sup>th</sup> of October, 2015, but at 9.49pm, a text from you to Mr Hawatt, "Hi Mike, sorry for sending you this message so late. I am really worried, mate. Can't I sign the contract extension this week or next at the latest? Please help me, mate. I've busted my arse to do everything I've been asked. I just need peace of mind. Anyway, please let me know Cheers, mate." And Mr Hawatt responded the

next minutes saying, "Okay, leave it with me," and you responded a minute after that, "Thank you, mate." Do you see that exchange of messages?

---Yes, sir.

You hadn't spoken to Mr Montague by 9.49pm, had you, about getting an extension of your contract?---On that date, I'm not sure.

There's certainly no trace of you having texted Mr Montague on the subject. ---Most of my communications with Mr Montague were done face-to-face.

10

Now, can I ask about the expression that you used in this text, "Please help me, mate." That's indicative, isn't it, of a relationship where you felt really quite dependent upon Mr Hawatt for satisfactory outcomes in your employment at council?---No, I disagree with that. That was me feeling very emotive and very emotional about, and unsure about my future, given that I've got a, I had a family to feed.

20

Yes. But instead of venting to your wife or to a neighbour, you vent to Mr Hawatt, and furthermore in addition to venting you ask him to help you, and it's that request to help you that I'm focussing on here.---Sure, sure.

Doesn't that indicate you felt dependent upon Mr Hawatt for satisfactory outcomes in your employment?---First and foremost I did vent to my wife almost every day, and her and I are the only ones that know exactly what I was going through at the time, and yes, I accept the fact that I sought Mr Hawatt's help in that regard, but it was out of frustration and out of uncertainty and out of emotion that, and unsurety [sic] of my future, given that Mr Montague had promised us a month or two months before that this was going to happen.

30

But you keep avoiding my question and my question is, this is indicative of the nature of your relationship so far as you were concerned with Mr Hawatt, you were dependent upon him for satisfactory outcomes in your employment. That's how you felt at the time, wasn't it?---Look, I accept that.

Then the next sentence. "I busted my arse to do everything I've been asked." You expected Mr Hawatt to know what you meant when you said that, didn't you?---Yes.

40

What did you expect Mr Hawatt to understand you meant when you said that?---Well, I had done everything in my power to achieve, and I did achieve the outcomes that were specified in my employment contract, my KPIs.

You didn't say your contract or your KPIs, you said, "Everything I've been asked," that indicates that you had been asked to do things by people, we'll explore who those people are in a moment, and then you had done more

than your best, you had, you know, practically to the injury of yourself done your best to comply with the requests that had been made of you. That's what you were saying there, wasn't it?---No, I don't accept that.

You had stressed yourself out to the max to ensure that the requests that were made to you were complied with by you, hadn't you?---I don't accept that.

10 And the person you're talking to is the person who's going to know what you've been asked to do and by whom, isn't it?---Yes, but so did all the other councillors and all, and Jim Montague.

And the persons who had asked you to do the most were Hawatt, Azzi and Montague, weren't they?---I accept that.

Still on page 287, item 386, the next day at 9.05pm you texted Mr Hawatt again reading, "Also, and I hate to keep asking, when do you think you can get back to me about what we discussed?" Do you see that?---Yes, sir.

20 Why did you send that text in light of the previous texts that you'd sent?---I, I, it's probably a flow-on from the previous text that I had sent him.

And you hadn't heard from Mr Hawatt, is that it?---Possibly.

So this is a chase-up?---Possibly. Yes, sir.

30 So can I then take you to page 288 and item 390. You, on the 29<sup>th</sup> of October, 2015, at 12.41pm, sent this text to Mr Stavis – I do apologise, Mr Hawatt on the 29<sup>th</sup> of October, 2015, at 12.41pm, sent this text to you, "All okay. Contract being prepared and council resolution adopted. No issues at all. I told him that people from other councils were asking me about you for a job with them. I said, 'We don't want to lose him,' and he agrees. Don't worry at all. It will be done soon. He can't change his mind anyway. Michael." You see that?---Yes, sir.

And you replied at 12.46pm, "Thanks, mate. Much appreciated. You're a true gentleman." Do you see that?---Yes, sir.

40 Did you ask – I withdraw that. Did you understand that other councils had been asking Mr Hawatt about a job for you with those other councils?---Not that I can recall, sir.

Did you ask Mr Hawatt what other councils had been asking him about you for a job with them?---Not that I can recall.

Do you think that that was just puffery on Mr Hawatt's part that he used with Mr Montague, or at least reported to you that he had used with Mr Montague?---I, I really don't know.

Now, when Mr Hawatt said, "Don't worry at all. It'll be done soon. He can't change his mind anyway," did you understand from the reference, "He can't change his mind anyway," that Mr Hawatt was saying to you "Mr Montague has given me an assurance as to what he's going to do. If he's given me the assurance, he can't change his mind"?---At the time?

Yes.

10 MR ANDRONOS: Commissioner, I just object before the witness answers that question. Given the nature of the witness's responses to what he thought certain things meant at the time, indeed the vagueness of his evidence about what he himself meant in things he said at the time, it would not be appropriate in my submission for this question to be asked in the leading form that it is asked. So the objection is basically that this is not a matter on which my friend should lead.

20 MR BUCHANAN: Well, Commissioner, I'm prepared to withdraw the question but I will be asking it again. I'm happy to ask an open question in the first instance, but in my submission a leading question, if the open question is not answered satisfactorily, is appropriate inasmuch as the evidence of this witness's understanding of the relationship between Mr Montague and Mr Hawatt is relevant to the matters under inquiry. And I concede that it might not have as much weight as direct evidence from whatever source it might come, but nevertheless it has the capacity to have some weight. So, I suppose what I'm doing is flagging my response to an objection if and when I press the question objected to.

30 THE COMMISSIONER: Mr Andronos, I understand the objection you made, but from Mr Buchanan's explanation it's within certain limitations. It's seeking an explanation from the witness in the context of a number of emails between, not emails, I'm sorry, text messages exchanged between Mr Stavis and Mr Hawatt, asking Mr Hawatt to intervene on his behalf with Mr Montague. Now, I understand that this is not Mr Montague's evidence of his relationship but it's the perception of this witness.

40 MR ANDRONOS: It's not a relevance objection, Commissioner. It's a form objection because of the leading nature of the question. I think my friend has indicated in his submission what the path forward is. Just ask the open question first then, depending on the answer of the open question, then to put a proposition in that leading way. The open question really should have been asked first, in my submission. That's all I have to say. I'm not going to - - -

THE COMMISSIONER: All right.

MR BUCHANAN: I'm happy to withdraw the question and ask a different question. Mr Stavis, looking at the content of the text message at item 390

on page 288 in volume 5, "Don't worry at all. It will be done soon. He can't change his mind anyway." What did you understand was the implication of Mr Hawatt's assurance he can't change his mind anyway?  
---At, at the time I, I really can't recall what - - -

You understood Mr Hawatt to have a relationship with Mr Montague and for Mr Azzi to have a relationship with Mr Montague which was different to the relationship which Mr Montague had with other councillors, didn't you?  
---I, I think that's a fair comment, yes.

10

And you understood them – that is to say, Councillors Azzi and Hawatt – to have a considerable degree of influence with Mr Hawatt, as they did with other councillors.---With Mr Hawatt, sorry?

Sorry, with Mr Montague. Thank you.---Sorry, can you ask the question again?

20

Yes. You understood Councillor Azzi and Councillor Hawatt to have a considerable degree of influence with Mr Montague.---That was my impression, yes.

30

When taking the whole of that text into account, Mr Hawatt told you, "Contract being prepared and councillor resolution adopted. No issues at all." And then ultimately he said, "He can't change his mind anyway." That would have been a reference, as you understood it, wouldn't it, to the fact that Mr Hawatt had such a degree of influence with Mr Montague that if he'd given an assurance to Mr Hawatt, he couldn't resile from it.---In all honesty, I, at the time I didn't, I, I, I just can't recall how I interpreted that. All I, I guess I was comfortable with was getting feedback that the contract had been prepared and so forth.

You weren't interested in the feedback that the decision would not be changed?---I, I can't recall thinking anything about that, that comment at the time, no.

40

From what you know now, though, you can see, can't you, that what Mr Hawatt was doing was providing you with an assurance that the decision wouldn't be changed and giving you the reason why.---I, I don't know, I'm not sure I can deduce from that what the reason why would be.

He can't change his mind.---Like I said, I, I don't recall thinking anything about that comment. All I do recall is feeling a sense of relief that a contract was being prepared.

But as you sit there in the witness box today, you can see that Mr Hawatt was saying that the decision wouldn't be changed. The reason was Montague could not change his mind. And from what you know of the relationship between Hawatt and Montague, the likelihood was that that was

because Montague would be unlikely to resile from an assurance he gave to Hawatt, such was the nature of the relationship that Hawatt had with Montague.---As I sit here today, yes.

At the time you received this in October 2015, Mr Montague changing his mind about your contract of employment would have been a matter of some concern to you, would it not?---I honestly didn't think about it at the time, I just accepted that that was going to happen based on previous conversations that I'd had with Mr Montague anyway.

10

But less than a year ago you'd had the experience of Mr Montague not honouring an offer of employment to you, hadn't you?---As I sit here today, yes, I can see - - -

And then having an almighty fight with Hawatt and Azzi - - -?---Sure.

- - - supported by other councillors, over that very fact.---Yes, sir.

That had been your experience, hadn't it?---It had.

20

And so you don't see, "He can't change his mind anyway," as being perhaps a reference to recent history in relation to your contract of employment? ---At the time I didn't think about it that way, to be honest with you. I felt a sense of relief, I remember feeling that.

Excuse me a moment, Commissioner. Now, in terms of the structure of council, councillors had no formal role to play in relation to employment matters, they were matters for the general manager, weren't they?---In terms of the structure, yes.

30

However, your experience was that Councillors Azzi and Hawatt were able to influence the general manager in relation to employment matters? ---I accept that.

And I think you've already told us, tell me if I'm wrong, you approached Mr Hawatt about the extension of your contract because you thought he'd be able to achieve it because of his influence with Montague?---I think in part, but as I said, the main focus was the fact that Mr Montague had already promised the contract and had taken his time to actually execute it, but in part I accept what you're saying, yes.

40

Excuse me a moment.

THE COMMISSIONER: When did Mr Montague promise you the extension of the term of the contract?---Sorry, Commissioner?

When did Mr Montague promise to you the extension of the term of your contract?---I can't remember the exact date but it was at least a month and a half, two months prior I believe.

Prior to this exchange of text messages?---Yeah, I believe so, yeah, but I'm not exactly sure, yeah.

10 MR BUCHANAN: Can I ask you to go now to page 290 in volume 5 and item 423. Item 423 is a text from you to Mr Hawatt on 11 November, 2015 at 7.26pm, and it reads, "Hi, mate. Is it all sorted? I can't tell you how stressed I am. I'm trying to help but also keep some sense of professional integrity. I'm also worried about Pierre. I don't want to, I don't want him upset." And at 7.44pm Mr Hawatt replied, "I don't want to see you stressed out. Things always sort themselves out. I will talk to Pierre if you want. Michael." And then you replied at 7.49pm, "Please talk to Pierre and Bechara. I appreciate all their support but I can only do so much. Thanks for all your support, mate, you're an absolute true friend. I really mean it, mate." Now, I could have missed out on something in the texts that immediately precede those three text items, 423, 424 and 425 on page 290  
20 of volume 5, but speaking for myself, I can't see what you're talking about there. Can you assist us?---I, I, I really don't know, to be honest with you.

Do you remember sending them?---No, no.

You see if we go back to page 289 we can see item 413 on 6 November, 2015, 9.49am, and a text to you from Mr Hawatt about the DA for [REDACTED] Ridgewell Street, Roselands, and that was where you were living. Your family home was the adjoining property and you were involved in that DA. You remember that?---Yes, sir.  
30

And then on 6 November at 9.55am, you said, "My external consultant promised me the report today, should have it finalised next week. Jeez it's good having a day off." Do you see that?---Yes, sir.

So it doesn't sound as if you're being very stressed about the [REDACTED] Ridgewell Street, Roselands DA.---No, I accept that.

40 So what is this about on 11 November, 2015, "Is it all sorted?" So it's something that you're looking to Mr Hawatt to sort out that is stressing you, that impinges on your professional integrity and involves Pierre Azzi in some way which might, you suggest, perhaps result in Pierre Azzi flying off the handle. What's the issue?---I'm just trying to think. If you look at those three SMSs it might be in reference to an application that had been lodged on Canterbury Road which was a source of, as I think I've said before, some stress. That's the only one that I can imagine, but I, I can't be a hundred per cent sure, to be perfectly honest with you.

With part of Canterbury Road?---Oh, one, the one that comes to mind was the 212 I think it was.

The Chanines' DA?---Yes, I think so.

And is that because Pierre Azzi took an active interest in those DAs, as did Bechara Khouri?---Yes.

10 And what was the support from Pierre Azzi and Bechara Khouri that you were expressing appreciation for in your text to Mr Hawatt on 11 November at 7.49, item 425?---That I really can't tell you, I'm sorry.

So was it some row that you're having with the Chanines and you had been receiving some sympathy or empathy from Mr Azzi and Mr Khouri because of, in relation to what you had had to do, but you still had this dispute with the Chanines and you were hoping Mr Hawatt would help sort it out?

---(No Audible Reply)

20 I'm just reconstructing out of the messages and what you've just told us, that's what I'm doing.---Yeah, I'm sorry, that was a fairly long question, do you mind asking that again?

Well, I'm trying to put together the clues and you've assisted us by identifying the possibility of 212 Canterbury Road and we knew that was one in which Pierre Azzi took an active role. We know that was one in which Bechara Khouri took an active role. We know it was one that involved stress for you, correct?---Yeah, that's fair.

30 And that there were times when you had to put pressure on the Chanines in order to comply with deadlines which had been set for the benefit in the first place.---That's correct.

Well, I'll have a look at that and come back to it later.---Sure.

Excuse me, Commissioner. Nevertheless, the messages are another insight, aren't they, into the relationships you had with those four men, not including the Chanines, but Hawatt, Azzi and Khouri, in relation to the way you did your job, aren't they?---Sorry, there was only three men you mentioned, was it, was it four?

40

Oh, did I say four?---Yep, yep.

I'm sorry. The three men, Hawatt, Azzi and Khouri.---Yep. So, and your question was, sorry?

Those three texts are an insight into your relationship with these men in relation to the way you did your job?---In, in relation to applications that

they enquired upon. It's fairly indicative of the, the communication that happened and how issues were communicated, yes.

Well, it's more than that, isn't it? It's emotional support that you received from Azzi and Khouri in relation to this particular issue. That's what you're saying, isn't it, in your text message at 7.49pm on the 11<sup>th</sup> of November? You received emotional support from those men?---I don't, I wouldn't say, I don't know if it was emotional but certainly when I expressed issues of concern that I had with applications, ordinarily they would I guess  
10 understand those issues and would relay those issues to the respective proponents. Yeah.

Well, that's not what you said in that text message. You're talking about, "all their support". That's support from Azzi and Khouri for you.---Yep. In, in a - - -

It's emotional support, isn't it?---Look, I, probably in part, yes, yes.

And you were seeking actual active intervention from Mr Khouri, I do  
20 apologise, from Mr Hawatt?---To assist, yes.

So, so far as, if it related to a particular application, the stress to you was being caused by what you were trying to do in that application, you were looking to Mr Hawatt as essentially to be your agent in dealing with the proponent?---Probably to, it was more a case of getting them, getting him to talk to Pierre in particular. If, if it, if, what I think this refers to that application, that that would have been more likely the case.

But what I'm trying to understand is, you didn't ask another councillor to do  
30 this.---No.

You asked a particular councillor to do it.---Yes.

And it's the particular councillor with whom you have had a long relationship with in terms of your history at Canterbury Council.---Yes.

And I'm trying to establish, well, what is the nature of that relationship such that you ask him to intervene, we assume for the moment, with the development proponent in order to relieve the stress on you?---It, it was,  
40 like I said before, it was always the case that if, if I approached Mr Hawatt, particularly when he had dealings, because he had representations on this. If it's that application I'm thinking of, he also had made representations. He was normally the one who was a bit more, understood planning issues and was more likely to be able to convey those concerns that I had to, for example, Mr Azzi, who didn't really have a grasp or a good grasp of planning.

And would it also be fair to say that of the two of them Mr Hawatt had better negotiating skills than Mr Azzi did?---I think he was more a calmer character.

Mr Hawatt was?---Yes.

Thank you. Can I go back to the text message on page 287 of volume 5, on the 26<sup>th</sup> of October, 2015, at 9.49, from you to Mr Hawatt. This is item 379 that we've looked at before. "Sorry for sending you this message so late. I'm really worried, mate. Can't I sign the contract extension this week or next at the latest? Please help me, mate. I've busted my arse to do everything I've been asked. I just need peace of mind. Anyway, please let me know." And then later on you send a follow-up message. You were saying, weren't you, that you had worked very hard to do everything that Mr Hawatt and Mr Azzi had asked you to do.---No, I worked very hard in my position. That was what I meant by that as I gave evidence a little bit earlier.

Except that that's not what you said. What you said was "everything I've been asked".---Well, that includes Mr Montague and - - -

Mr Hawatt and Mr Azzi.---It includes them but it also, the main part of that was that I had, everything I'd been asked to do which was embedded in the contract primarily. That's what that reference would be.

Well, it wasn't embedded in your contract that you had to do what you were asked to do by councillors, was it?---Well, yeah, there is. There's a clause, there was a clause in the contract.

To respond to inquiries.---Yes. That's right.

Not to do everything you were asked to do by councillors or specified councillors.---I accept that. I accept that.

And you were making an argument in the text that we're looking at there, item 379, that you expected would appeal to the person reading it, namely Mr Hawatt, when you said, "I've busted my arse to do everything I've been asked," weren't you?---Sorry, what was the first - - -

You were making an argument to the reader that you expected him to accept. You weren't making an argument you expected him to reject.---I accept that.

You expected him to understand what you meant when you said, "I've busted my arse to do everything I've been asked."---Yeah. Yes.

And the way you expected he would read that is "everything I've been asked by you, the person reading this text".---No, sir, I don't accept that.

Or by you and your colleague Mr Azzi?---I don't accept that.

Or by you and your colleague Mr Azzi and the general manager, Mr Montague?---I don't accept that.

Why not?---Like I said, in the context of what I believe I said or meant by that was being asked in terms of fulfilling my duties in my role.

10 The fact that you didn't use that language but instead used the language you did indicates that that's not a true answer.---No, that's not, sir. I mean, look, we're, we're, I mean I don't know why I used those words as I sit here today, but no, I don't accept that.

Well, it's obvious why you used those words, isn't it? You had your job because of the influence of Mr Hawatt and Mr Azzi. Pure and simple. You knew that at the time you sent that text.---No, I can't recall what I was thinking at the time. I mean I didn't, as I sit here today I don't recall it in that context, no.

20

At the time you sent that text you knew you had your job because of the actions of Mr Hawatt and Mr Azzi in the campaign they waged against Mr Montague's decision to not honour the offer of employment Mr Montague had made to you.---I, I, I accept that.

You knew that.---Yeah, I did.

30 And they had asked you – they, Mr Azzi and Mr Hawatt – had asked you to do numerous things in your job by 26 October, 2015, hadn't they?---I accept that.

And you'd busted your arse to do those things that they'd asked you to do, hadn't you?---I, I accept that, yeah.

You were acknowledging in sending that email, that text message, that you had placed yourself under obligation to Messrs Hawatt and Azzi, that is to say that they had influenced you in the performance of your duties. That's what you were acknowledging.---I, I - - -

40 That's the implicit acknowledgement.---I don't believe I was referring to that in particular.

I'm not suggesting you're referring to it - - -?---Yeah.

- - - but it necessarily follows that you are acknowledging in that text that you had placed yourself under obligation to Hawatt and Azzi in a way that influenced you, because they influenced you in the performance of your duties.---No, I, I don't see it that way, I'm sorry.

Even as you sit there now, knowing what you know, both about the evidence and about what you've been involved in, you don't think that there's an acknowledgement in there implicit in the words you used that you had placed yourself at the disposal of Messrs Azzi and Hawatt to influence you in the performance of your duties in the past, that is to say before 26 October, 2015, and intended to do so for as long as you were director of city planning?---I, I did not just merely accept whatever they asked, and as I've already, as we've already seen, I had pushed back in, in, in a lot of cases, so it wasn't just a case, did I feel, at that point in time I don't know how I felt but it, I mean my main way of dealing with these, those councillors, those two in particular, was actually trying to find solutions, and yes, to actually progress applications.

You were using the words, "I busted my arse to do everything I've been asked," as an argument you expected to appeal to Mr Hawatt to impel him to agree to your request, namely to intervene with Mr Montague to get your contract extended.---No, I don't accept that, sir.

20 But that's exactly what you've been asking. That's what you're saying here.---No.

This is my argument. I've done everything I've been asked and can't you intervene, please.---As a director of planning, everything I've been asked, like I said in the, in the role of my duties and responsibilities, as well as, yes  
- - -

Well, you didn't say, "I busted my arse as director of planning." You said, "I busted my arse to do everything I've been asked."---Correct. I understand that and that's what I meant by that. I meant that I've busted my arse to actually fulfil my responsibilities as director of planning.

Well, that's a nonsense.---Well, I disagree.

Now, you have referred from time to time – you did today – to your KPIs in your contract.---Yes, sir.

And may I ask you to go to the same volume, volume 5, page 167. Feel free to go to the front page, page 144 and you can see that that's a City of Canterbury contract of employment. It's in respect of you as director of city planning. Do you see that?---Sorry, page 167 or - - -

Page 144. Do you see that?---Yes, sir.

And you go over the page. There's a table of contents. Do you see the table of contents?---Yes, sir.

Do you see that item 21 includes a schedule D?---Yes.

And it says that it's at page 24 and we go then to page 167 in volume 5 and you will see that page 24 of the contract is schedule D, performance agreement.---Yes, sir.

This is the document that you refer to when you use the expression KPIs?  
---I believe so, yes.

10 Now, there's nothing in here about achieving solutions for development proponents, is there?---I'd have to read it, I'm sorry. I don't think so but - -  
-

I can take you to page 170 in volume 5, that is to say page 27 of the contract.---Yes.

And in the third paragraph there at the end it talks about reducing DA processing times to a particular benchmark.---Yes.

20 Do you see that?---Yes, sir.

And then on the next page, the fourth paragraph, "Mean average processing times for assessment of development applications is to be consistently below 80 days by 30 December, 2015." Do you see that?---Um - - -

Sorry, it's the last paragraph in that cell, mean average processing times. It's page 171 - - -?---Oh, sorry.

- - - in volume 5.---Sorry. Yes. Yes, I can see that.

30 And just going back to the front page, page 168. The three columns are headed Themes and Long-Term Goals – reading from the left – Strategy and Key Performance Indicators. Can you see that?---Yes, sir.

40 And then if I can take you then to page 171. Can you see that a strategy, the third strategy on that page is, "Meeting community expectations regarding processing development applications." And then if I can take you back to page 170, the bottom of the second column, "Respond to mayoral and councillor inquiries in an appropriate and timely manner." And then the KPI for that is, or the relevant KPI for that is, "All mayoral, general manager and councillor inquiries are appropriately responded to within five working days." Do you see that?---Yes.

Now, that is the KPI in relation to responding to councillors, isn't it?---I believe so, yes.

Yes. And I'll take you to part B, Organisational Behaviours, that is to say part B of the 2015 performance plan and in the second row - - -?---Sorry, what page is that?

Oh, sorry, page 172.---Yes.

In the second row, there's a column headed Leadership Behaviours and in the second row underneath that heading is a heading Continuous Improvement and the first dot point is, "Continually looks for ways for Canterbury City to do things more efficiently." And the second dot point is, "Encourages people to develop creative solutions and share ideas." Now, that is not a reference to finding solutions for customers or external stakeholders whose applications are for developments which don't comply with development controls, is it? It's a different subject altogether.---I, I'm not sure, to be honest with you.

All right. You tell us what you thought, "Encourages people to develop creative solutions and share ideas," in this context, the context of this page, means. I just remind you the heading is Organisational Values and Behaviours, not Determination of Particular Applications by Stakeholders, but Organisational Values and Behaviours. What do you think, "Encourages people to develop creative solutions and share ideas," means? ---Well, I, I guess by virtue of that fact that it says, "To do things more efficiently," it means to actually streamline processes, whether it's organisation or whether it's departmental, and in our particular case, a large part of that business was dealing with applications. So, efficiently could mean, have many forms I guess. Setting processes in place that would encourage more efficient outcomes. In, in the context of applications, I guess quicker processing times, quality development, those sorts of things.

Providing solutions for developers is not an organisational value, is it?---Not for developers per se on, on their own, no.

This is about the organisation and the values it has and how it, the organisation, behaves. That's what the ideas expressed on that page are about, isn't it?---And that filters down through the departments.

Yes. But it doesn't mean finding solutions for developers whose development proposals do not comply with development controls as a matter of law, does it?---No, no.

No. Can I go back, please, to a text message, still on volume 5, page 227, item 72. A text from you to Mr Hawatt on the 17<sup>th</sup> of March, 2016, at 10.27pm. "Hi, mate. Can you please talk to Jim about the pay rise he promised? He said he would do ages ago. Please don't say that I said anything. Cheers, Spiro." Do you see that?---Yes. Yes, sir.

Do you remember getting Mr Hawatt to intervene with Mr Montague on your behalf to give you a pay rise?---I, I, I remember having discussions, and I, I, but that also formed part of the previous texts that you, you showed me.

In October 2015?---Yeah. Yeah.

Yes.---And as I said, this is me obviously flowing on from that, following up on what Jim had already promised. Because there was a considerable lag time when, from when those discussions happened with Jim to when it ultimately happened.

10 Why did you not want Mr Hawatt to say to Mr Montague that you had said anything?---I'm not sure why I said that. I'm sorry, I'm not sure.

You wanted Mr Montague to be approached by the person you understood had influence with Mr Montague, namely Mr Hawatt, rather than Mr Montague thinking that you were nagging him for the pay rise you'd been promised. Is that fair to say?---I had been nagging him. I wouldn't say nagging him to the nth degree, but I had been hassling him. But I accept what you're saying in part, yes.

20 That is to say you wanted Mr Montague to be approached by the person you believed had influence with him, namely Councillor Hawatt.---In part, yes.

To intervene on your behalf, to get a benefit for you on your behalf, correct?---I, I don't know whether that was actually, that was in my mind because I know that, as I've said before, there were discussions that were had with councillors and with Jim about the terms of employment. So I'm not sure, I mean, I don't - - -

A pay rise benefit, isn't it?---It is, yes. That's what that refers to.

30 Now, you had asked Mr Azzi to – I withdraw that. You had mentioned it to Mr Azzi as well, this is item 74, your text to Mr Hawatt at 10.30pm on the 17<sup>th</sup> of March.---I believe so, yes.

And is that because you thought Mr Azzi also had influence with the general manager and that your best way of getting this benefit was to have the people that you believed influenced the general manager to intervene on your behalf?---In part, yes. But it was in the context that I just explained.

40 Yes. But that's simply the context.---Sure.

I'm asking, why were you getting these two councillors to intervene on your behalf? It wasn't because you thought that the best way, the best outcome for you would be likely to flow from Montague being influenced by Hawatt and Azzi.---That wasn't the best way. I, I, Mr, Monty had already expressed to me previous that it was happening.

But it obviously wasn't getting you anywhere by 17 March, 2016, was it, otherwise you wouldn't have sent the text that you did.---It, it was delayed, yes.

Yes.---Yes.

10 So the reason you sent that text was you wanted the, you thought that the best – as at 17 March, 2016 – you thought that the best outcome for you would be achieved by having those two men intervene with Mr Montague on your behalf.---I don't know about intervene but at least have a chat to him, yes. Yes.

Well, what's having a chat with him about - - -?---Well, making - - -

- - - if not intervening?---Making inquiries. Because they were part of all those previous conversations as well.

20 Let's not be silly about this, Mr Stavis. If they – Mr Hawatt and Mr Azzi – had a chat with Mr Montague about him following through on a promise to increase your salary, that was intervening with him on your behalf to achieve you that benefit, wasn't it?---I accept that.

Excuse me a moment.

THE COMMISSIONER: Mr Buchanan, Mr Stavis has just asked for a short break. We're about 25 minutes away from morning tea. If we have a short break for five minutes and then maybe if we continue to about 25-to, is that suitable? All right. We'll adjourn for five minutes.

30

**SHORT ADJOURNMENT**

**[11.05am]**

MR BUCHANAN: Mr Stavis, you visited Mr Azzi's and Mr Hawatt's houses, their residences, from time to time?---More so Mr Azzi's house, yes.

40 Yes. Can I return to some aspects of that. Is it right that you had a visit to Mr Azzi's house before you had been appointed? You were appointed, remember, on the 8<sup>th</sup> of December, 2014.---Yep.

So, before that date, do you recall a visit to Mr Azzi's house?---Not, not that I, sorry, what was the date again?

The date I'm suggesting is the 1<sup>st</sup> of December, 2014. I can provide you with some assistance but just my first - - -?---Yes, sure.

- - - question is, do you recall going to Mr Azzi's house before you were appointed DCP?---No, I don't, sorry.

Page 224 of volume 5, if the witness could be shown that, please. Have you still got volume 5 there?---Yes.

10 If you could turn to page 224. And I think I need to clarify that the meeting, I would suggest to you, at Mr Azzi's house was on the 2<sup>nd</sup> of December, 2014. If I can take you towards the top of the page, item 18, for example, is a request by Mr Hawatt to you on the 1<sup>st</sup> of December at 8.50pm, "Can we catch up tonight?" You responded at 8.53, "Sorry Michael, I'm out at dinner with my family at Drummoyne. What about tomorrow? Is everything okay?" Hawatt responds, "Tomorrow at 4.00pm. Is that okay?" You respond at 8.56pm, "4.30 as I finish work at 4.00. Is that okay?" At 9.00pm still on 1 December you say, "Is 4.30pm okay?" Then Mr Hawatt says at 9.07pm, "Okay. At Pierre Roselands." Do you see that?---Yes.

20 Now, the next message is on 2 December at 4.19pm. It's from you so it's obviously after, and it's very close to 4.30, and you say, "Running late. Will be there 4.45pm." Mr Hawatt responds at 4.23pm, "No problem." Do you see that?---Yes, sir.

Can I just ask, so obviously you are meeting there with Mr Hawatt and obviously Mr Azzi before 8 December when you were appointed, when you were given the letter of offer of employment?---I guess on the evidence of those SMSs I'd say yes, but I just can't recall the meeting.

30 You can't recall. Do you recall going to Mr Azzi's house for the first time? ---I, I, I thought, my first recollection was in relation to applications.

And thus whilst you were director of city planning, is that what you mean? ---Yeah.

You see at 9.07pm on 1 December, item 23, Mr Hawatt assumes you know where in Roselands Pierre Azzi lives. Why would he have assumed that? ---I'm not sure. I probably, I'm not sure to be honest with you.

You didn't respond "At what address?" did you?---Not that I can see here.

40 Well, this correspondence appears to be by text and there's no inquiry by you as to where you're meant to be going other than Pierre's at Roselands. ---Yeah, look, I can't answer that. It may have been phone calls. I'm not sure.

It also may have been that you already knew where Pierre lived, may it not?---It's possible.

And it's possible perhaps that you had been to Mr Azzi's house before 1 December, 2014?---In all honesty I don't, I don't recall if I had.

Is it possible that you went to Mr Azzi's house twice before the letter of offer of employment from Mr Montague on 8 December?---As I've said, I really don't remember.

10 So can you assist us at all as you sit there now as to why you would have been going to Pierre Azzi's house on 2 December, 2014?---Look, I don't remember going there. I'm sorry.

But what's the likelihood, given that you were not director of city planning, no decision had been made, the interview panel had already occurred back in November, so why were you going to Mr Azzi's house to meet with Mr Azzi and Mr Hawatt on 2 December?---Probably the likelihood would have been around my employment I guess.

Yes.---Yeah.

20 And the likelihood would have been for – amongst other things – you to have received a report from Councillor Azzi and Councillor Hawatt as to how your candidacy was progressing?---I can't recall to be honest with you but it's possible, yes.

You received reports, didn't you, from Mr Hawatt from time to time about how your candidacy was progressing with the general manager?---Yes.

30 Because he had been meeting with the general manager and talking to the general manager about your candidacy, as you understood it?---As I understood it. I can't confirm it, though, but yeah.

Now, you told us that you'd been to Mr Azzi's house six to seven times, as best as you could recall. Page 3368 of the transcript. Would that be right as you sit there now?---It sounds about right.

And is it right to say that most of the time it would have been to do with applications?---I believe, yes, yes.

40 And if you can't remember a visit or visits before you were appointed, then it would appear that there were more than six to seven visits to Mr Azzi's house, there might have been as many as nine.---What, after I was appointed or - - -

Altogether in your life, times that you went to Mr Azzi's house.---Oh, six, seven, nine, I mean that's all in that sort of range. I can't confirm it, sorry.

But you don't regard nine as an impossibly high figure obviously. You think that's part of the range of the likely number of visits?---Yeah, yeah, I accept that.

Now, was there – just asking whether, was there a possibility that you met before you were appointed, at Mr Azzi's house, in relation to an application?---Not that I can recall, no, no.

10 Did you ever meet Mr Demian at Mr Azzi's house - - -?---No.

- - - before you were appointed?---I don't believe so. I might, not that I can recall.

If I could ask that we play, please, a recording LII 02353, recorded on 1 February, 2016, commencing at 5.20pm. Commissioner, whilst that's being set up I should inform you that the recording being played is an extract of a longer recording and that the recording is of a call initiated by Bechara Khouri to the telephone of Michael Hawatt, and after a quantity of banter between those two Mr Hawatt handed the phone over to Mr Azzi. Khouri  
20 handed the phone, Hawatt handed the phone over to Mr Azzi.

**AUDIO RECORDING PLAYED**

**[11.24am]**

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

30 THE COMMISSIONER: The audio file and transcript of the extract from the recording LII 02353, recorded on the 1<sup>st</sup> of December, 2016, commencing at 5.20pm, will be Exhibit 229.

**#EXH-229 – PORTION OF TRANSCRIPT SESSION 02353**

MR BUCHANAN: Mr Stavis, did you recognise the voice of Mr Khouri and Mr Azzi speaking in that conversation?---Yeah, yes, yes.

40 And I forgot to ask you yesterday, remember I played a conversation which is Exhibit 228, which was of a conversation between Mr Hawatt and yourself? You accepted that that was in fact a conversation with your voice and Mr Hawatt's voice in it.---Yes, sir.

Yes. And can you see on page 3 of the transcript of the extract, a passage attributed to Mr Azzi in Arabic, translated into English, "Yeah, I'm here meeting up with Michael and Spiro," just above halfway down the page? ---Yep. I can see that.

And do you remember hearing the names Michael and Spiro in English when that passage was spoken?---I don't remember hearing it but I accept that.

That conversation that would appear to indicate that you were at Mr Azzi's house with Michael Hawatt on that occasion?---I don't recall, as I said, having a meeting with them around that time at his house but I, that says, "Yeah, I'm here meeting up with Michael and, and Spiro."

10

Yes.---It doesn't actually say that we're there.

I see. So you think it could be somewhere else?---I'm not sure. I'm just, that's not, the way you put it, I don't necessarily agree with that.

Oh, I see. It might not necessarily be at Mr Azzi's house, is that what you're saying?---Yeah, because it says, oh, I think you put in such a way to say that I was already there with, with Michael.

20

Yes.---I, I that could be that they're meeting up, he's meeting up with us.

Oh, I see.---I, I'm just - - -

Yes. Can I just draw your attention to the passage a little bit below that where Mr Khouri says to Mr Azzi, "Where are you? So, are you at home?" Mr Azzi says, "If you can come over." Mr Khouri says, "I can't come over." Do you see that?---Yes, sir.

30

That would appear to indicate that Mr Azzi was saying that he was at his home. Do you accept that?---Accept that, yes.

And that you were with him and Michael at the time, Michael Hawatt?---I, I don't recall that at all, no.

Well, how many times were there that you met at Mr Azzi's house with Michael Hawatt and Mr Azzi?---Oh, numerous times. Yep.

So, this could be one of them?---I, I, I don't recall, given the date, that that, that I did actually meet with him at his house.

40

Commissioner, there's only one matter that I'm going to – I haven't finished with this examination subject yet, but can I just ask for the purpose of our transcripts, on page 1 of the transcript, the second passage attributed to – I'm sorry, first of all we didn't hear the first passage attributed to Mr Khouri and, secondly, I heard instead of "Brett McPherson" the name "Brad McPherson" being spoken. That's just a contribution I make. It's not vital, but that's certainly what I heard. I know his name appears again. I have to

say I wasn't paying as close attention the second time, but I think it was a reference to Mr Brad McPherson.

THE COMMISSIONER: Mr Stavis, did you hear Brett or Brad?---I heard, I, I thought it was Brad.

And do you know who Brad McPherson is?---Yeah. Brad McPherson was, I believe, manager of corporate services that worked underneath Andy Sammut.

10

MR MOSES: He's one of the witnesses that we act for, Commissioner.

THE COMMISSIONER: Right. Thanks, Mr Moses.

MR BUCHANAN: So, Commissioner, I propose that we note our transcript accordingly. Now, there's a reference in the conversation between Mr Khouri and Mr Azzi – this is the top of page 2 – to Marwan, and that is likely to be Marwan Chanine. You see that?---Yes, sir.

20

“Marwan, Marwan, isn't he going to meet with them?” is attributed to Mr Khouri. Can you see that?---Yes.

And Azzi says, “Yes, but he said to him let him talk to Jim to see, let him speak to Jim. Jim wanted to talk to him.” And then there's an exchange about whether Mr Azzi, whether in Mr Azzi's opinion Jim Montague should go to such a meeting. You can't assist us with what that might have been about at the time?---No, I'm sorry, sir.

30

Excuse me a moment, please. There are some pieces of evidence which might be of assistance to you in working out what you might have been talking to Mr Azzi and Mr Hawatt about on the 1 December, I'm sorry, 1 February, 2016, because on 5 February, 2016 you email George Gouvatsos – this is volume 17, page 189 – about 538 Canterbury Road, the Maroun DA, the construction of two additional residential floors to the approved development on that site. It had clause 4.6 issues. And you said it shouldn't go out to a consultant but the report should be given to Mine Kocak to prepare the report. Do you remember that switch between your decisions as to who should prepare the report in relation to 538 Canterbury Road?---Yes, sir.

40

And you said it is supportable and you said it must go to the March meeting.---Yes, sir.

Is that something that was discussed with Mr Azzi or Mr Hawatt on 1 February, 2016, when you were at Mr Azzi's house?

MR PARARAJASINGHAM: I object, Commissioner. My understanding of this witness's evidence is he hasn't actually conceded that he was present for the conversation that we've just heard on 1 February, 2016.

THE COMMISSIONER: He said he didn't recall being there, then he conceded he'd met there on numerous occasions, then said he was not sure, given the date.

10 MR PARARAJASINGHAM: Yes. To then, in my submission, to then ask him questions that presuppose that he was there is not fair to this witness given the status of his evidence as to him being present at this conversation.

MR BUCHANAN: Commissioner, I'll withdraw the question and I'll reframe it.

We know that the conversation was with Mr Azzi at Mr Azzi's house. Correct?---I accept that, yes.

20 And Mr Azzi said, page 3, "I'm here," present tense, "Meeting up with Michael and Spiro." Michael would be Michael Hawatt. Correct?---Yes.

Spiro would be Spiro Stavis, wouldn't it?---I'd imagine so, yes.

When you had meetings with them at Mr Azzi's house you talked about applications.---Correct, yeah.

30 And four days after this meeting you give an instruction to George Gouvatsos in relation to the Maroun DA at 538 Canterbury Road, that the report must go to the March meeting. What I'm asking is, is that a decision which you made consequent upon this meeting with Mr Azzi and Mr Hawatt on 1 February, 2016?---I don't remember meeting them on that date is what I'm saying.

Did you direct that the report for the DA must go to the March meeting because of or consequent upon a conversation that you'd had with Azzi and Hawatt at Azzi's house?---No, I don't recall that at all. I remember - - -

40 Did you give that instruction to Mr Gouvatsos consequent upon a conversation with Azzi and/or Hawatt as to when this DA needs to be determined?---I, to the best, as I sit here, my best recollection of the urgency of that application, the instructions came from the GM that it had to go to the March meeting.

And Mr Azzi and Mr Hawatt certainly pursued Mr Maroun's DA on his behalf with you, didn't they?---Yes.

Commissioner, I note the time.

THE COMMISSIONER: Just before we do, when you were being asked whether you remembered the meeting, you said you weren't sure given the date. Is there any significance about that date?---Well, I'm not, is that, I, I just don't recall actually meeting them on that day, that's all.

All right.---Yeah, yeah.

Like, I didn't know whether the significance of the date was that you were on holidays around that time or anything like that. You just don't recall?  
10 ---Yeah.

All right. We'll resume at 12 o'clock.

### SHORT ADJOURNMENT

[11.38am]

MR BUCHANAN: Mr Stavis, do you still have in front of you, sorry, we'll need to put it up on the screen, the transcript of Exhibit 229, it's the third  
20 page, and you'll recall this is a telephone conversation between Mr Azzi and Mr Khouri on 1 February, 2016, commencing at 5.20. Would it have been unusual for you to have gone over to Mr Azzi's house to have a meeting with him and Mr Hawatt after work, after your work?---On, on, on, on the occasions that I did frequent Mr Azzi's house it was generally after work, yeah.

I can inform you 1 February, 2016 was a Tuesday. Could the witness please be shown Exhibit 210, I think it is. This is a series of pages from your  
30 exercise books and diary and I wanted to ask you to have a look. They're paginated in the bottom right-hand corner. If you could have a look at page 12. Now, by and large, you didn't make notes of what happened at meetings you had with Mr Azzi and/or Mr Hawatt, did you?---No, not detailed notes, no.

On this page, however, you can see two entries, one dated 1 February, 2016, and the other dated 2 February, 2016. The first doesn't indicate that it's necessarily a meeting. Are you able to assist us? It's in respect of 445-455  
40 Canterbury Road, Campsie. Is that just thoughts on your part or was it a note of the meeting or a call?---I, I can't be certain to be honest with you.

Looking then at the rest of that page, you can see that it appears to be a note in respect of a meeting with Mr Azzi and Mr Hawatt on 2 February, 2016, which is the day after that call between Mr Khouri and Mr Azzi in which Mr Azzi said, "I'm here meeting up with Michael and Spiro." Is this a note that is referable to that meeting, now that you look at it, at Mr Azzi's house with him and Mr Hawatt?---That I can't be certain of, I'm sorry.

Is it possible you had two consecutive meetings, sorry, you had two meetings on consecutive days, the 1<sup>st</sup> and 2<sup>nd</sup> of February, with Mr Hawatt and Mr Azzi?---I, I, I don't recall to be honest with you. If your question is, is it possible? I'd say yes but I just don't recall.

And it looks to me, and I'll just invite you to assist, as if pages 12 and 13 are to be read together. That is to say that all of the asterisks on page 13 relate as well to the business the subject of your note for a meeting with Mr Hawatt and Mr Azzi one assumes on 2 February, 2016, is that right?---It's, it's possible but I, I just don't recall. It looks like it flows on.

Yes.---Yeah.

Are you able by looking at the note to assist us as to why you took what would appear to have been an unusual course of taking notes at the meeting? Unless, of course, this is more of an agenda than minutes.---It, it, it looks like, if, it, it, it follows in what I've said before, that, that I normally would just take almost, not notes but prompts to actually follow up with applications and that this might be in the spirit of that.

And on page 13 there is a reference to 538 Canterbury Road. The last item reads, "Jimmy Maroun's (Spoilers)."/>---Yes.

And that was the car wash site?---Correct.

THE COMMISSIONER: Can I just ask, back on page 12, the first three items which have asterisks next to them also have ticks. Do you see that? ---Yes.

What's the significance of the ticks against the three?---I really don't know, to be honest with you. I can't recall.

Does it indicate any practice of yours?---No, not really, no. I'm not sure why I did that.

MR BUCHANAN: Now, is it the case that you met with Mr Hawatt and Mr Azzi at Mr Azzi's house practically monthly after you'd started or a few months after you'd started work as director of city planning?---I didn't think it was that regularly, sorry.

When you went to Mr Azzi's house there were sometimes developers there, development proponents there?---Yes, sir.

And they included Mr Demian more than once - - -?---Yes.

- - - in your experience?---Yes, sir.

And Mr Marwan Chanine?---Yes.

And your dealings with them was that you were explaining why decisions were made in, or explaining issues in respect of their development proposals?---Yes, sir.

And they were trying to persuade you that their proposal should be adopted and adopted quickly?---In some cases, yes.

Excuse me a moment.

10

Did you ever meet Bechara Khouri at Mr Azzi's house?---I believe so, yes.

How many times?---I can't give you a definitive number, to be honest with you.

Was he present on any of the occasions when Mr Demian was there or Mr Marwan Chanine was there?---Yes.

20

And did he take part in conversations about the developments of those two developers respectively on the occasions when you were there at Mr Azzi's house?---Yes.

And what role did he play in those conversations?---It was almost like a mediator, but he was certainly advocating for the proposals.

Now, did you have conversation with Bechara Khouri about a role at the newly amalgamated council?---It's, it's, it's possible, I just don't recall it, but it is possible.

30

Well, can I make an application, Commissioner, to vary a section 112 order in respect of transcript on 1 December, 2016, commencing at page 645.

THE COMMISSIONER: Sorry, page 645.

MR BUCHANAN: Yes, Commissioner. I'm just concerned that I need to provide adequate context. Excuse me a moment. Commissioner, if I can make an application in respect of the transcript commencing at page 645, at line 8, sorry, 7 and concluding on page 646 at line 3. Sorry, I'm told that line 3 is line 5.

40

THE COMMISSIONER: Finishes with "yeah".

MR BUCHANAN: Correct.

THE COMMISSIONER: I vary the non-publication order made on 1 December, 2016 to exclude the evidence of this witness as recorded in the transcript page 645, line 7, and finishing at page 646, line 5.

**VARIATION OF SUPPRESSION ORDER: COMMISSIONER  
VARIES THE NON-PUBLICATION ORDER MADE ON 1  
DECEMBER, 2016 TO EXCLUDE THE EVIDENCE OF THIS  
WITNESS AS RECORDED IN THE TRANSCRIPT PAGE 645, LINE  
7, AND FINISHING AT PAGE 646, LINE 5.**

10 MR BUCHANAN: Mr Stavis, I will read from the transcript of evidence  
that you gave on 1 December, 2016 to the Commission and if you could  
listen to what I read to you and I'll then ask you some questions about it.  
Question, "Did you have any conversations with Bechara Khouri about a  
role at the newly amalgamated council?" Answer, "Bechara Khouri? I may  
have. Yes, I may have, yes." Question, "Do you remember any?" Answer,  
"I think it was, I think it was all about, they were, Bechara Khouri I believe  
was at the same meeting that we spoke about just before." Question,  
"Right. So he was also there?" Answer, "Yeah." Question, "Was there  
anyone else there?" Answer, "No. Not that I'm, no." Question, "And what  
did Mr Khouri say?" Answer, "Well, it was, it was just a discussion that  
20 they were having, I guess. You know, I was more a listener. But it was all  
focused around they were talking about the council and GMs and all sorts of  
things, yeah." Question, "Do you know why you were invited to that  
meeting?" Answer, "No." Question, "Were you asked to do anything in  
particular at that meeting?" Answer, "No." Question, "At council?"  
Answer, "No." Question, "Did anything anyone said give rise to an  
inference that you took away from that meeting about what you were  
supposed to do at council?" Answer, "Not really, not really. I didn't really  
think anything would happen, to be honest with you." Question, "When you  
say you didn't think anything would happen, what do you mean in relation  
30 to that?" Answer, "Well, I don't know. I guess at that stage I was quite over  
things and had been through a lot, so I didn't really get any expectation of  
anything that was going to happen." Question, "In terms of Mr Azzi to Mr  
Hawatt doing anything in relation to the new council, is that what you mean  
or - - -" Answer, "Yeah, like, yeah." Question, "Did they – anything to you  
about, did anyone at the meeting say anything to you about using political  
connections to help you keep your job?" Answer, "I really don't remember  
if they said anything about that." Question, "Did anyone say anything about  
the new general manager, Matt Stewart, at that meeting?" Answer, "I know  
they didn't like him." Question, "They didn't like him?" Answer, "Yeah. I  
40 don't think they liked him very much." Question, "How do you know, how  
did you form that impression?" Answer, "Just, I guess, every time his name  
was mentioned they just had this snarl look upon them, yeah." Mr Stavis,  
you recall giving that evidence to the Commission?---Yes.

You were present at a meeting with Mr Khouri and Mr Hawatt and Mr Azzi  
in which the newly amalgamated council was discussed?---Yes.

Where was it that that meeting was held?---I believe it was at Mr Azzi's house.

And was there anyone there apart from those three and yourself?---That I can't be certain of, I'm sorry.

10 And what was the role in any conversation you had with Mr Khouri at the newly amalgamated council that you had a conversation about?---Sorry? I don't understand the question.

Well, you were asked, "Did you have any conversation with Bechara Khouri about a role at the newly amalgamated council?" Answer, "Bechara Khouri? I may have, yes. I may have, yes."---It's, it's likely that was in relation to the new, I guess, the new position, director's position.

Right, so in relation to your role?---I would imagine so, yeah.

20 And can you tell us what was said between you and Mr Khouri about that? ---That I'm not sure. I, I, I don't recall, sorry.

What was the effect of it or what was the gist of it?---I don't, I know that there were discussions about roles. Again, as I said in my previous evidence, I, by that stage, I was sort of over it. There were discussions – so when I said roles, it may have also been the general manager's role. So, for a lot of those conversations, a lot of that banter, I really didn't pay much attention to but it was mainly in relation to the, the, the roles, I guess, in the newly formed council.

30 Do you remember what day of the week this meeting was?---No, I don't. Sorry.

What's your memory? Can you give us a feeling for it? What was the season of the year?---That I can't recall to be honest with you. I know it was during the day. Yep.

40 And were you, were you inside or outside the house?---Ordinarily his, the meetings took place outside. So, it's likely it would have been outside in, in the sort of patio area.

Why were you there?---I think I, the impression as I sit here today was for applications, I guess, because that was normally what, when I met with them at Mr Azzi's house it was always around applications. So, it's likely that that was the instigator and then these conversations sort of flowed on from that, I guess.

And when you say applications, you mean planning applications?---Yes, sir.

Might it have been also because, as you understood it, Mr Azzi and Mr Hawatt were concerned about maintaining their influence over the way planning decisions were made at council after the amalgamation?---I don't recall that to be honest with you.

10 But would that not have been evident to you as a result of listening to what they were saying about structuring and people playing roles in the newly amalgamated council?---Like I said before, I don't remember the detail in terms of conversations or the banter that was going on, so I can't really give you any, any definitive insight into that I guess.

What was the purpose of the meeting as far as you could tell?---I, I, for me, I thought it was in relation to a, as I sit here today, in relation to a applications from me, but - - -

But you didn't call the meeting, I take it?---No, I don't, no.

So it would have been called by Mr Hawatt or Mr Azzi?---Yes, I believe so.

20 Is that right, you would have been asked to attend by one or other of them?  
---I believe so, yes.

By the time the meeting finished, what was your impression as to what the purpose of the meeting had been?---Largely discussions about the future of the council, roles and so forth. So there were, I, from what I recall today, it was more a case of more emphasis on that aspect rather than talking about any specific application.

30 But when you say the future of the council, was the focus upon the future of decision-making at council in respect of planning applications, planning applications and proposals?---It was, yeah, I got, I got that vibe, but it was largely about roles and, and so forth.

And you knew that you were their prime contact in the planning division, didn't you?---At, at, at, at the council, yes.

And so obviously they saw you at that - - -?---Well, sorry, can I, can I take that back?

40 Yes, certainly.---I also believe that Mr Montague was there at the time, but I'm not sure if that meeting took place while Mr Montague was there still or not.

Sorry, I just need to clarify, do you say you believe Mr Montague was at that meeting?---No, no, no, sorry. You asked a question about - - -

THE COMMISSIONER: The main contact within council.---Yes, within the council.

MR BUCHANAN: Yes.---And the other main contact within the council that was planning-related was Mr Montague, but I'm not sure if he was still there at the time.

He disappeared off the scene in a matter of weeks - - -?---That's right.

- - - didn't he?---He did, yes.

10 After amalgamation that is.---That's, that's correct.

And in any event, he went, he was put in a practically inactive position upon amalgamation, wasn't he?---That's correct.

And so that would have been understood by Mr Hawatt and Mr Azzi at that meeting. Correct?---I believe so, yes.

20 And so therefore you were their only active contact or person who could exercise influence over planning decisions at council as at that time, weren't you?---I think that's fair comment, yes.

And they thought, they obviously thought it appropriate that you be present at their meeting when they were discussing how to maintain their influence over planning decisions at council.

30 MR PARARAJASINGHAM: Well, I object, Commissioner. At some point asking the witness to draw inferences about what are in others' minds does become of less use to the Commission and in my submission we've reached that point with this question.

MR BUCHANAN: I'm happy to withdraw it. It will be a submission. If the witness wanted an opportunity to comment, then he could have had it, but not to be.

40 Now, can I ask you whether, I mean you obviously gave evidence on 1 December, 2016 to the Commission. What contact if any did you have with Mr Hawatt or Mr Azzi between the time that you gave evidence to the Commission on 1 December, 2016 and the commencement of this public hearing?---No contact, as best as I can recall.

Or they with you?---Yeah, I don't believe they did. I don't recall them contacting me.

And no attempt at contact?---From those two, no.

From Mr Khouri?---Yes.

Between 1 December, 2016 and the commencement of this public inquiry, did you have any contact with Mr Khouri?---I'm not sure if, if it was at the commencement or during that period that you've specified, but at some point he came to where I worked and I had a, he, he, to see me unannounced.

So I want to ask you questions about what you're thinking about now. You just tell us, please, your best recollection of what you're thinking about now.---Okay. I got a call from our receptionist, where I currently reside at.

10

Work at.---Work at, sorry. Reside. Sorry, I apologise. Saying that there was some gentleman wanting to see me, and he used a different name that I didn't recognise from what I recall. And where my office is and where the reception is, is quite a walk, quite a distance. And as I approached the hallway to where the reception was, probably very close I recognised who he was and he approached me with a, with a plan that appeared to be like a drawing of some sort of a, of a house or I didn't really look at it. And, and I, there wasn't much. He said to me, "Oh, I'm here, I need some help with this," and that's where I stopped him and said, "Look, I, it's not appropriate. I can't talk to you," and left and basically just walked back to my office, and I never saw him again.

20

Who was this man?---Mr Khouri.

Now, after that occurred, did you talk to your lawyers or one of them?  
---Yes, sir.

And did you tell them what had happened?---I, I, I believe so. Maybe not in great detail, but yes.

30

And was there any discussion between you and either of your lawyers as to whether you, what had happened should be disclosed to the ICAC?---Yes.

Could you have a look at this, please, and we'll bring it up on the screen. If you could read it to yourself.---Yes.

Are the contents of that email true?---Yeah, the gist of it, yes, yes.

40

Is there anything in it that now you think is incorrect or should be qualified in some way?---No, I think the evidence I gave just before was fairly consistent with this, yes.

Yes. What I'm really asking you is, is there anything now that you read this email – which you can see is dated 19 April and purports to be an account of something that had happened earlier that day – is there anything that occurs to you now as you read it that you want to tell us you're not quite sure that's right or you think any change needs to be made or any addition?---No, I think that's, that's fine.

So, I tender the email from Mr Pararajasingham, dated 19 April, 2018, to the solicitor instructing me, Ms Catherine Ellis, at 8.58pm.

THE COMMISSIONER: The email from Sam Pararajasingham to Catherine Ellis, solicitor at the Commission, dated 19 April, 2018, concerning the visit by Mr Bechara Khouri to Mr Stavis's workplace will be Exhibit 230.

10

**#EXH-230 – EMAIL FROM SAMUEL PARARAJASINGHAM TO CATHERINE ELLIS RE VISIT OF BECHARA KHOURI TO SPIRO STAVIS DATED 19 AUGUST 2018**

MR BUCHANAN: And, Commissioner, Mr Khouri, just so this can placed in context, gave evidence in this public inquiry on Wednesday, 8 April and Monday, 23 April. That's all in relation to that subject, Mr Stavis. Excuse me a moment. I wonder if I could return to the subject of DA processing times. Just excuse me a moment. I'm just trying to track down a document. Whilst that's happening, could the witness please be shown Exhibit 62, statement by Ian Woodward of Canterbury-Bankstown Council. Have you got a copy of Mr Woodward's statement in front of you?---Yes, sir.

20

Would you have a look, please, at the table which is on page 4 of that statement. Do you see that table?---Yes, sir.

30

You had an issue taken up with you by Mr Stewart before you left council of a comparison of the DA processing times at Bankstown with the DA processing times at Canterbury, do you remember that?---I, I, I remember that we were asked to provide a set of data comparing the two, but I don't recall specifically talking to Mr Stewart about that directly.

Or him raising it with you in an email?---It's possible. I just don't recall as I sit here today.

40

And do you recall learning that the mean processing times at Bankstown were significantly less, smaller than the mean processing times at Canterbury Council?---I do recall that, yes.

You would have I suppose considered that, well, that's probably due to the fact that Canterbury Council had bigger projects than Bankstown Council did?---Yes.

Anything else?---That was the main reason I think, yes.

Can I ask you for your opinion about or your response to the table that is page 4 in Mr Woodward's statement as to what apparently was an increase

in median gross determination time at Canterbury Council over certainly the year 2013-14 when Mr Occhiuzzi had been the director of city planning?--- Sorry, what was your question about that?

10 Yes, is there anything you'd like to say about the apparent increase in median gross determination time during the time you were director of city planning compared to the time certainly in 2013-14 that Mr Occhiuzzi had been director of city planning before you came in?---The only thing I can put it down to is that there were a lot more larger applications by the time I got to, to council, so I'm not sure these dates, like the, so where do I fit in, in respect of those date ranges?

Well, didn't you commence work on March 2015?---Yes.

And conclude in August 2016?---Correct.

And so the figure 2015-16 - - -?---Yep.

20 - - - is certainly referable to the period when you were DCP?---Yeah. But are these like calendar dates or financial, sorry, financial years.

THE COMMISSIONER: Financial.

MR BUCHANAN: Financial years dates.---Yeah, sorry, yeah. Okay.

There's values of DA determined, certainly there had been an increase in value of DA determined - - -?---Yes.

30 - - - in the period you were there, but there had been a significant increase in the amount of time it took for DAs to be determined.---It appears from the figures here, yes.

40 How did that happen, given your KPI that you have referred to in that regard and to Mr Montague's concern about reducing DA processing times that you told us he expressed concerns about to you when he met you before you were appointed?---I believe that in the years 2014-15 certainly in terms of value and also in terms of the size and complexity of DAs was far greater during my tenure than the year before. That's to the best of my recollection anyway.

And how does that explain the increase in determination times?---Well, these are, these are median gross determination times which take into account very small applications right through to the largest application.

Yes.---So it stands that if you receive more of the larger applications it'll take a lot longer to process those applications during a financial year and therefore your median gross determination times obviously increase.

And if the witness could be shown Exhibit 85, please, the calendar entry volume. Page 66, Mr Stavis.---Yeah.

It's an email to you from Mr Stewart dated the, sorry, in respect of a meeting that's scheduled for 6 June, 2016 at the Bankstown office. Can you see that?---Yes, sir.

10 And, Mr Stavis, Mr Montague said, "I need a plan which needs to start with structure and responsibility. Show me what your plan is." Mr Stewart said, "I need a plan which needs to start with structure and responsibility. Show me what your plan is." You see that?---Yes, sir.

And then he sets out what he calls the stats for the financial year to date, for 2015-2016, split by former council area and then combined. Do you see that?---Yes, sir.

20 So Mr Stewart wasn't happy with the median or average processing time for DAs under your watch compared with Bankstown?---I know he was concerned about, obviously with the, with a newly amalgamated council there'd be issues with Canterbury Council's processing times compared with Bankstown, yes.

And so can I just go back to my question. It was part of your KPIs to reduce DA processing times?---Yes.

Mr Montague had expressed concern about it and said he wanted you to address it?---Correct.

30 Probably more than once.---Yes.

And yet the figures went in the opposite direction under you.---They did but I tried to explain why in my opinion they did.

Could it be, Mr Stavis, that a reason why the figures went in the opposite direction was that a longer period of time was spent processing DAs because for many of them you were trying to find solutions favourable to the development proponents?---It's a possibility, yes.

40 Well, many a time an initial letter was sent, we have seen, to development proponents saying, look, there's been a preliminary review undertaken of your plans and your application, and we have the following issues. And sometimes that sort of letter went to 10 or more pages, and the proponent was asked to respond. That's right, isn't it?---Yes.

And there's nothing unreasonable about that, I want to suggest to you, but we have seen, haven't we, that a number of proponents, those favoured by Mr Azzi and Mr Hawatt, were – and in particular the Chanines, Mr Maroun and Mr Demian – were given particular hands-on attention by you in trying

to solve the problems often identified in those preliminary assessment letters, isn't that right?---Yes, but can I qualify that by saying I offered the same sort of service, if you like, with all, most applications that I was, was alerted to, not necessarily just those people that you mentioned.

10 And we have seen that that then occupied necessarily a period of time, a quantity of time, trying to fix up things that the development proponents refused to fix up or that they apparently couldn't fix up, and you trying to find a way through the development controls that were otherwise an  
impediment to a consent being granted.---I, I didn't see it that way to be  
honest with you. I saw it as a way of trying, given my discussions with the  
general manager and what he expected of me even before my tenure and the  
discussion that I had that I, they, he wanted someone who was solutions  
driven. So, and, yes, it, it, definitely I accede to the fact that it takes a lot  
longer, that approach, when you're dealing with larger applications and  
simply just refusing an application and then coming back.

20 And it had appeared to you, hadn't it, that Mr Khouri and Mr Vasil had wanted a candidate who was solutions driven?---That was expressed to me, in, I guess in the initial meeting that I had with them.

Yes.---Yep.

Never referred to ever again by either of them?---No. I don't remember exactly but there were occasions, yes.

And that was also expressed to you by Mr Hawatt and Mr Azzi?---Yes.

30 In your meeting with them, commencing on 16 November, 2014, the day before the interview panel?---That's a fair comment, yes.

So you understood that to be a priority, finding solutions for developers who ran up against a brick wall of development controls over and above what was in fact in your KPIs, at least so far as concerned reducing processing times?---A lot of that, yeah, but a lot of that had to do with the complexity of the controls that Canterbury had.

Well, sure.---Yeah. But yes, I accept what you say.

40 So, I just want to conclude on that particular issue. You had a specified KPI to reduce processing times. There's no specified KPI for finding solutions for non-complying development proposals, and yet at the end of the day you prioritised the unwritten KPI of Messrs Khouri, Vasil, Montague, Hawatt and Azzi of finding solutions for non-complying development proposals over your expressed KPI?---Primary with, yes. Yes, I accept that.

Commissioner, I wonder if this would be an appropriate time to take the luncheon adjournment. I want to play a recording to the witness that would

take us up to 1 o'clock, but then I also wish to ask him some questions about it and it's not really fair on him not to have the words ringing in his ears and having to recall what it actually was that was said.

THE COMMISSIONER: No, look, we'll adjourn for lunch now but we'll resume at 5 to 2.00.

MR BUCHANAN: Thank you, Commissioner.

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**LUNCHEON ADJOURNMENT**

**[12.55pm]**