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INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC  
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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON FRIDAY 12 OCTOBER, 2018

AT 2.30PM

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

MR ANDRONOS: Mr Stavis, just before lunch you will remember I asked you some questions about the email you sent on 8 December in which you, this is volume 14, page 1, about whether or not, I was asking you some questions about what you meant when you referred to instructions, and my suggestion to you is that you weren't actually waiting on any instructions, certainly not from Mr Montague. I think I put the proposition that there was  
10 nothing he could relevantly have instructed you on at that time. Do you recall all that?---Yes, sir.

And just to make it clear, your response to the proposition that there was nothing that Mr Montague had to instruct you on that time, I think you agree that you couldn't think of anything that there was.---That's correct.

You agree with that now?---Yes, sir.

Yes. Now, to try and work out what must have been in your mind when you  
20 sent that, can we go back to the document with the scribble on it, which is at volume 13, page 199.---Yes, sir.

Now, I think you've already said in answer to questions asked by my friend Counsel Assisting that the text, the handwritten text in the bottom left-hand corner of the page was text that you wrote onto the document in the course of the meeting at which this document was presented to you.---Yes, sir.

Now, I won't go over all of this. This was dealt with in your evidence  
30 before. But just to get to the point, my suggestion to you is that this was a meeting which took place on 9 November, rather than an earlier meeting. ---I can't really clarify that, to be honest with you, yeah.

Fine. Now, the meeting at which you wrote those notes on was, I would suggest to you, quite a technical meeting in which you and Mr Demian engaged in some debate about how the relevant FSR would have to work, is that correct?---Well, it was more a case of what he was putting to me in terms of how that would work, yes.

But it wasn't a case of him making assertions to you and you having to  
40 defend a position, was it?---No.

Because at that stage you didn't really have a position. You had doubts about this but you didn't have a fully formulated view, did you?---No, sir.

No. And so he made these propositions and either his handwriting was already on the document or he added to the document in the meeting?---It was, it was already there when I saw it.

It was already there?---Yeah.

Could he have added to it while you were there?---It's possible.

And then you wrote, you wrote the text next to the three asterisks, "Design. Traffic report. Planning report." Now, these were things that you had identified and steps that Mr Demian needed to take, aren't they?---That's correct.

10 Because if you were going to be able to advance this, you needed more information from him?---Correct.

And at the end of the meeting, Mr Demian actually kept this document, didn't he?---That, I can't recall to be honest with you.

Well, my suggestion to you is that he kept the document because he needed a record of what he had to do, and then a few days later you asked him to email it to you and he sent you a PDF of it.---That's possible, yes.

20 That's fine. Now, just finally, that meeting, you had had a number of very tense meetings with Mr Demian. This was not one of them?---To the best of my recollection, no.

And the final suggestion I'll make to you in relation to the meeting is that the only people there were you, Mr Montague and Mr Demian and that Messrs Azzi and Hawatt weren't there?---That's not the way I recall it. Yeah.

Okay.---Yeah.

30 Now, if we go back to volume 14, page 1 where you talk about you're waiting on instructions.---Yes, sir.

What you were in fact waiting on at the time, before you could have a productive meeting with Mr Annand, were those three points, documents relating to those three points that you had written on the document in the course of the meeting, weren't you?---Look, it's possible.

But that is something that you needed to - - -?---Yes.

40 - - - receive prior to having a productive conversation with Mr Annand?  
---Well, at the very least to make up a submission.

Yes. And just leave to one side whether the word instructions is correct or not.---Sure.

But if you were waiting on anything, that's what you were waiting on, isn't it?---I believe so, yes.

Now, in relation generally to the 998 Punchbowl Road project, Counsel Assisting made a suggestion to you in the course of your evidence – and tell me if you recall this, if you don't, I'll take you to the passage – that you disregarded the merit of this particular proposal because you knew that was what Mr Demian wanted and you knew that that was what Mr Montague wanted. Do you recall being asked that question?---Sorry, no.

10 No, okay. If we could – Mr Stavis, if you could turn to page 3643 of the transcript, starting towards the bottom of the page at line 40 when you get there, Mr Stavis.---Yes.

Now, immediately preceding that you were asked a question about when you left the meeting and you gave the evidence that Mr Montague instructed you to find a solution. Now, we'll take that answer as qualified by what you've told the Commission today.---Yes, sir.

20 But then you were asked, “Yes, but what did you believe you had to do?” And your answer was, “To look at whether or not the proposal itself could stand on merit, which would have meant that I would have needed the feedback of Peter.” “Peter Annand, I guess?” “Yeah.” Now, that's correct, isn't it?---Plus all the other stuff that we spoke about before, yes.

30 Now, then you were challenged this way, “But it wasn't a case of whether it could stand on merit, was it? It was a case of satisfying Mr Demian because that was the clear message you had been given by Mr Montague, wasn't it?” And you said, “It was in part, yes, yes.” “It was entirely, wasn't it? What was the part that said assess this on its merits?” And you respond, “No, they were my words.” And we go on with the question, “No message was given to you, was there, that you should assess it on its merits?” And then we go into pressure, I'll take you to the next as well. “So do you consider you were as a result of that meeting under pressure to come up with an amendment to the planning proposal, council's planning proposal that supported an FSR of 2.8:1?” “I think that's, I felt some pressure, yes, yes.” Okay. Now, just about that passage, and in fact this whole question of pressure coming from Mr Montague generally, because it comes up a number of times in the course of your evidence, you accept now, don't you, that at the meeting Mr Montague did not use any words that were to the effect of putting you under pressure. Do you accept that?---As far as words go, no.

40 Yes, as far as words go.---No.

And that the only way you've been able to, I suppose, explain the impression you had, is from the tone and spirit of what Mr Montague said, is that correct?---Yes, sir.

But it wasn't an acrimonious meeting, was it?---No, it wasn't, no.

No.---No.

And it's quite hard to try to get a demonstration of tone and spirit but let me approach it this way. You knew that it was proper to take direction from Mr Montague?---Yes, sir.

You were a direct report of his?---Yes, sir.

10 He had a statutory right to direct staff?---Yes, sir.

I'm going to make this suggestion to you, Mr Stavis, that in your own mind, you have come to reconstruct events so that every step you took was at the behest or direction of Mr Montague, even when that wasn't the case?

MR BUCHANAN: I object. Every step that was taken in relation to anything in particular? This matter, 998 or every matter or - - -

20 MR ANDRONOS: Yes. Okay.

THE COMMISSIONER: Yes, it's too broad.

MR ANDRONOS: Yes, too broad. It is too broad. No, I accept what my friend says. Now, you know there are a number of steps that you took in relation to each of the projects that is the subject of this inquiry?---Yes, sir.

30 And you know that a number of those steps have been criticised as having been taken for the purpose of advancing the interests of developers?---Yes, sir.

And that includes things like your dealings with Mr Annand, your dealings with Mr Olsson. These are the steps that I'm talking about but I'm not confining it just to those. I'm confining it to the places where you've been criticised in this inquiry as having taken steps favouring the interests of developers over the public interest, or over the proper exercise of your duties. So, you know what I'm talking about?---Yes, sir.

40 You are aware that each of the – sorry, I withdraw that. You are aware that Mr Montague was entitled to direct you?---Absolutely.

And what I'm suggesting to you is that in your own mind you have reconstructed events in such a way as to shift responsibility for the conduct which you're being criticised for from yourself to Mr Montague?

THE COMMISSIONER: I'm not going to find that useful. It's again, too broad. I think to have any probative value, if you want to pursue this you're going to look at specific instances.

MR ANDRONOS: All right. Well, I, I was trying to get there quickly.

THE COMMISSIONER: I know but if - - -

MR ANDRONOS: All right. Well, let's look at the questions that you were asked, which I just took you to.---Sure.

10 Now, that is in relation to the FSR of 2.8:1 following the meeting which we've been discussing, which I suggest is 9 November and I think, to be fair, you have said might have been at some other time, but you recall you were asked questions about merit and it was suggested to you that you abandoned merit-based analysis because you understood that was what Mr Montague wanted you to do. Now, I'm paraphrasing there, but you accept that is the import of what had been put to you?---Yes.

And you accepted that proposition at the top of page 3644?---Sorry, I can't see where I accepted it, sorry.

20 MR PARARAJASINGHAM: Sorry, perhaps he should just be taken to specifically what was put and a question to be asked.

MR ANDRONOS: Okay. I'm indebted to my friend. If you go back to the bottom of 3643, the last three lines. "But it wasn't a case of whether it could stand on merit, was it? It was a case of satisfying Mr Demian because that was the clear message that you had been given by Mr Montague, wasn't it?" And your answer was, "It was in part, yes, yes." "It was entirely, wasn't it?" And then I think, I think ultimately you get to the point where you accept the proposition. Now, in accepting Counsel Assisting's suggestion there, Mr Stavis - - -?---Sorry, can I just ask a question if I may?

30 Sure.---Where do I accept that proposition? I've just - - -

If you go down to just before the number 10.---Yes.

"So did you consider that you were as a result of that meeting under pressure to come up with an amendment to the planning proposal, council's planning proposal that supported an FSR of 2.8:1?" "I think that's, I felt some pressure, yes, yes."---Yes.

40 Now, as I read that last answer - - -

THE COMMISSIONER: I think to be fair, if you go to the question and answers above, Mr Buchanan put to you, "What was the part that said assess this on the merits?" And you say, "Oh, look, they were my words." Then Mr Buchanan says to you, "No message was given to you, was there, that you should assess it on the merits?" And you seem to agree with that. And then the next proposition that Mr Andronos has just taken you to about whether you say yes, you felt some pressure.---Yes. Okay. I understand.

MR ANDRONOS: Now, can I just ask you first, do you stand by these answers or do you wish to revise your evidence in this regard?---No, look, no, I, I stand by those answers.

10 So is it your position that as you left that meeting you felt you were under pressure from Mr Montague to abandon a merits-based review in favour of advancing the interests of Mr Demian. Is that how you see things?---Not, not the abandon the merits point of view aspect of it, I don't think that, they, like I said, it was, when the question was asked to me, "It was entirely, wasn't it. What was the part that said assess this on its merits?" "No, they were my words." So I knew that I had to look at it on its merits as well, but obviously I felt just the way that, the way it was, the meeting was and the tone of it that I was under pressure to come up with some sort of solution.

But what had actually been said to you was, "Go away and have a look at it. Let us know what you think."---Yes, I accept that, yes, yes.

20 And it was going to take some time before you even had in your possession everything that you needed to see.---Yes.

Yes. Now, I want to direct you to the specific question of whether or not you understood Mr Montague was pressuring you to come up with a solution which disregarded the merits of the application.---Not in those terms.

Well, not in any terms, was it?---Yeah, I, I, I felt pressure to actually come up with some solution that could achieve a 2.8:1.

30 But that wasn't at the expense of being able to justify it in proper planning terms, was it?---No, sir. No, sir.

You understood Mr Montague's instruction was, do it if you can, properly. ---Yes, sir. Well, I mean that for me was a given in that regard.

It was a given.---Yes.

40 You and Mr Montague never had a discussion on any project where either of you said, it's not justifiable, but let's do it anyway. You didn't ever have a - - -?---No.

- - - conversation like that?---No, not, not, not as far as I can recall, no.

No, no. Your position is that you wouldn't and you knew that he wouldn't. ---Yes.

Yes. And Mr Montague no doubt gave you pressure but it was in relation to timing, wasn't it?---That's not entirely the way I, I, I interpreted that, no.

Well, let's just take it step by step.---Sure.

He was always on your case about timing. I think you've said that.---Yes.  
Yes.

And that was about every application that came to his attention. He was on your case about timing.---That's correct.

10 And when you gave evidence on some occasions that you know that Mr Montague was on your back about timing, you don't need to refer to any specific recollection because you just knew that he always was. That's correct, isn't it?---Yes.

And that includes the applications the subject of this inquiry and all the other applications that you and he discussed as well, doesn't it?---Anything that was brought to his attention, yes.

20 Yes. Now, go beyond the question of timing to the question of the actual success or failure of an application.---Sure.

Mr Montague was pro-development, wasn't he?---He was, yes.

He was. And he said to you words to the effect at some point, "If it's borderline, give them the benefit of the doubt and allow the application."  
---Yes, sir.

30 Now, that may have been in relation to one of these projects but more likely it was in relation to some other context, isn't that right?---It was just a general statement that I recall that he made, not only in front of my presence but the other directors. But it was in relation to councillors, really.

THE COMMISSIONER: In relation to what, sorry?---There were two councillors in particular, yeah.

MR ANDRONOS: So it wasn't in relation to – I'm not talking about the "give them what they want" conversation. I'm talking about, I think you might have put it in terms if it's 50/50.---Yes.

40 I think I'm putting – the words might not have been "50/50", although conceptually it was the same.---No, those words were never attributed to him in relation to development, but he certainly was pro-development. I'll answer it that way, yes.

And he was pro-customer service.---Yes.

And so if somebody had a borderline application, a customer-service-oriented organisation would give them the benefit of the doubt, wouldn't they?---Yes, sir.

And you thought that was reasonable?---I did.

That was your approach too?---It was.

THE COMMISSIONER: What do you mean by, what did you understand borderline to mean?---Well, as it, insofar as it applies to development.

10 Well, I think Mr Andronos is putting to you that, what he's suggesting Mr Montague said to you was said in a development context.---Which it, I think I clarified and said I don't remember it being used in that context, but I certainly, I'm of the belief that Mr Montague was pro-development, yes, yeah.

20 And the word – all right, I'll just ask you, and the use of the word “borderline”, if that was used in respect of a development application or planning proposal, was do you understand that would mean?---On balance, if, if, if the proposal was reasonable, not the best development in terms of materials, finishes and so forth, and provided the impacts were within tolerable limits under, under the LEP and, sorry, mainly the DCP when it came to impacts, then it was worth allowing.

MR ANDRONOS: Thank you, Commissioner. Thank you, Mr Stavis. Now, I just want to move on in the chronology. Hopefully we get to the end of 998. The good news, Mr Stavis, is that nothing else is going to be as long as 998. At the end of January in 2016, you sent an email to Mr Farleigh where you were basically trying to encourage him to get something into a CDC meeting quickly. If we can go to volume 14, page 148, please. ---Yes, sir.

30 Now, you had been on leave for about three weeks until the middle of, until about 25 or 27 January, is that correct?---I don't recall but I accept that, that's the case, yeah.

I mean, you would normally take your leave at about that time?---Yes.

40 Now, here you're recorded as asking Mr Farleigh, “If you can please program this”, and the heading is 998 Punchbowl, “to go to the March council meeting.” Now, you were asked some questions about why it was important that you meet that deadline and you said that it was that you believed it was an instruction from the general manager.---Yes, sir.

Now, can you please go back and have a look at page 72 of the same volume. Do you have that page open?---Yes, sir, yes.

And you see this is an email from you to Charlie Demian and Matt Daniel and you have cc'd a number of people, Mr Gouvatsos, Mr Montague, Mr Foster, Mr Farleigh.---Yes, sir.

And that's on 8 January. Now, if you go down to, and here what you're doing is you're sending everybody a copy of Mr Annand's report which has the much-discussed FSR of 2.8:1.---Yes, sir.

10 If you go to the fourth paragraph, you say to all of the recipients, "We'll be commencing our report to council probably for the 17 March council meeting. However, we require updated traffic and planning reports from you, so we can complete our report to council." Oh, and here we are, two paragraphs down, "I'll be away from today, back on 27 January." So, that answers that question. Now, this was the occasion on which you communicated the receipt of the report and the proposed date of the council meeting at which it would be reviewed to everyone, wasn't it?---Yeah but I, I actually – yes.

Yes.---In answer to your question.

20 And Mr Montague found out that 17 March was the proposed date from this email along with everybody else, didn't he?---I don't know, that's not the way I recall it to be honest with you.

How do you recall it?---That, he did say to me that he wanted it to go to the March meeting. He didn't give me the date but he said the March meeting. I remember that.

When could he have told you that?---I'm not, oh, it may have been before I went, sometime before.

30 Do you recall when you received Mr Annand's report?---No, sir. Not off the top of my head.

If you go back to page 9 of that bundle, it's the covering email from Mr Annand and he sent his associate, Ms Avval, A-v-v-a-l, sent you the report at about 20 past 3.00 on Thursday the 7<sup>th</sup>.---Yes.

And you circulated it, if you go back to page 72, at quarter past 10.00 on the 8<sup>th</sup>.---Yes.

40 All right. Is it your suggestion that you had a conversation with Mr Montague in the meantime?---No, it was before that. It would, it would have been before that, sir. At some point before that.

But the report hadn't landed by then, so - - -?---Well, I, I understand that but I remember that there was, I had a discussion with him about the fact that, in relation to timing of this because of being, and it was, it was probably early in the piece, sometime in December it would have been because the committee meetings had actually finished and we were planning what was happening for a lot of the first, I guess, or one of the first committee agendas

but I do recall, and it was, it was a very general conversation, and he said, "Can we get this one to the March meeting?" And that was basically it.

He didn't, that was an inquiry, wasn't it? It wasn't a demand.---I, I took it as, I took it as an instruction, I mean that was my, my, yeah, he didn't, I don't remember him using the words, it must go to that particular meeting day, but I, that was what I took that it meant basically.

10 That was how you took it. But there were occasions where he would ask can this go to a meeting in a particular month and you responded, can't get it into that month, it'll go into the next month. There were occasions where that happened, weren't there?---There were, yes, there were.

And he never remonstrated with you over that, did he?---Not that I can remember.

20 Okay. Mr Stavis, that's all I want to ask you about 998 Punchbowl Road. Commissioner, I'm about to move onto a different topic. I don't know whether you or Mr Stavis would like to take the break now or whether we should carry on. I'm in the hands of you, Commissioner, and Mr Stavis. ---I'm okay.

THE COMMISSIONER: Yes. Why don't we - - -

MR ANDRONOS: Keep going. Okay.

THE COMMISSIONER: - - - continue.

30 MR ANDRONOS: Mr Stavis, I'm now going to ask you some questions about 548 Canterbury Road. Just to place it in context again, these are not questions that I'm putting to you to challenge your evidence in this regard but if I misstate something please let me know.---Sure.

When you arrived at Canterbury in March 2015 there was already a development application that had been approved for six-storey building at 548 Canterbury Road?---I believe so, yes.

40 And there was on foot a council resolution to progress and submit to the department a proposal for a planning proposal to increase the height limit on the site from 18 metres to 25 metres.---Yes, sir.

Mr Demian's company, Statewide Planning, had lodged a section 96 application to increase the height limit on the site to 25 metres. That occurred before your time.---Yes.

They lodged a new DA for an extra two floors on top of the already approved six storeys.---Yes. Can I just correct you?

Yes, please.---I'm not, I'm not sure if the section 96 was actually to add the extra two levels.

That might have been the parking, mightn't it?---Yes.

Yes.---And something else, that's right, yes.

The section 96 was for parking.---Yeah.

10 The new DA was for the additional floors.---Exactly, yeah.

Sorry, thank you, thank you. Now, we've already had some discussion about the kind of personality that Mr Demian was.---Yes.

And it would be fair to say, wouldn't it, that Mr Demian was a problem to some degree for everyone, so far as you knew, at council?---Certainly. Certainly for my staff, yes.

20 It was part of your practice to keep people informed of the progress you were making on various files, wasn't it?---On various – sorry, I missed that last bit.

It was part of your practice to keep people informed or people – I'll start that again. It was part of your practice to keep applicants informed on progress on files that you were involved in. Is that correct?---Yes.

30 Yes. And that really is a good management device because it means if they're in the loop they know what's happening, they don't get frustrated and angry.---Yes, sir.

And people who are liable to get frustrated and angry, you make sure that those people are informed so they don't blow up unnecessarily.---That's correct.

And that's not just dealing with people like Demian, who are combustible, but you had regular contact with Councillors Azzi and Hawatt because you knew they were interested in a whole lot of files.---Yes, sir.

40 And you kept them abreast of what was going on because they had a concern about what happened with respect to the outcome of particular applications.---Yes.

And you kept Mr Montague informed but in a different way because he was more concerned just with making sure progress was taking place.---I tended to confide in him a bit more than that, but generally, yes.

When you say confide, is that that, that suggests, doesn't it, that you had problems and you were looking to him for assistance.---Yes.

Were these, tell us what these problems were.---Problems in relation to applicants, for example, particularly applicants that he had dealings with in the past. Problems in relation to some councillors. Generally they're the two, yeah.

He was a source of support for you.---Yes, I, I, yes, yes, yes.

10 And he was sympathetic to the difficulties you had told him you were facing.---Yes, sir. Yes.

In relation to 548 Canterbury Road, which I'll sometimes call the Harrison's site.---That's okay.

20 You use those terms interchangeably. By about the middle of 2015 you recall a legal issue had arisen in relation to the clause 4.6 variation and the extent to which the departure from controls was relevant to the exercise of the discretion under clause 4.6. Do you remember that issue?---What, roughly what date was that?

About the middle of 2015. It was leading up to getting advice from Chris McEwen SC.---Yes, that was at, at, at the behest of me, having wanted some clarification in terms of, and advice in terms of how, to what extent clause 4.6 could be used to vary a standard.

And whether the degree of exceedance was a relevant consideration.---Yes.

30 Now can we go to volume 19, please. So we're done with volumes 13 and 14. You can hand those back if you've still got them. Page 315. That's 3-1-5. Do you have the document, Mr Stavis?---Yes, sir. Yes, sorry.

You'll see that it's an email you sent to Peter Jackson at Pikes and Verekers on 6 July, 2015, and you've copied a few people at Canterbury Council.---Yes.

40 And you say to Mr Jackson, "The GM is hassling me to get this advice finished. He wants the advice within 14 days from today. If it's not achievable, please let me know." Now, there are two propositions I want to put to you about what you said to Mr Jackson. Firstly, this is yet another example of Mr Montague being on your case to do things quickly, is that correct?---Yes.

Secondly, what he's on your case to get done quickly is get the legal advice, obviously.---Yes.

Now, to be fair, you wanted the legal advice quickly too, didn't you?---Yes.

And you wanted the legal advice to be as comprehensive as possible because you wanted to know whether you still had a problem that you had to resolve?---Yes, sir.

And you were hopeful. In fact some of the emails read like you were almost desperate to have the legal advice resolve the issue for you, is that right?  
---No, I was actually quite keen to find out whether, I mean I had some understanding because of past experience in terms of, and knowledge of other local government areas where they were able to vary standards on a certain way, but there was a, from the best as I recall, as I sit here today, there was a, a, a couple of planning decisions that actually threw a spanner in the works.

Yes, the Ashfield Council case?---Yes. So, and which restricted, I guess, or provided further hoops to jump, if you know what I mean, than would otherwise have been under the normal provisions of clause 4.6.

Well, keeping that document open, could you also, might Mr Stavis also be provided with volume 20 and look at the document at page 1. Do you have the document, Mr Stavis?---Sorry, yes.

Now, my earlier question about whether or not you were desperate to have the advice resolve the question, that might have been putting it a little highly, but you were hoping that the advice would actually give you the answer?---Yes, sir.

THE COMMISSIONER: And sorry, you're suggesting without going to merits of the case in a way?

30 MR ANDRONOS: Well, the - - -

THE COMMISSIONER: Sorry, the legal advice may determine it without - - -

MR ANDRONOS: Well, it would, I'll put this to you, if the legal advice said, no, you can't do it, then that would be conclusive, wouldn't it?---Yes.

If the legal advice said, yes, you can do it, then you would determine on the merits?---Correct.

40

But you were hoping to get an answer at the preliminary level to say whether or not it was possible to even go to the second step of determining it on its merits?---Correct.

Now, when you were, when both you and Mr Montague were keen to get this advice, you certainly didn't know what the answer was.---Yep, that's correct.

And Mr Montague sure didn't know what the answer was.---Correct.

And so by seeking this advice and, as you say at page 1 of volume 20, hoping that it may be conclusive, at least against the proposition, you were simply both trying to find an answer to the question which would be determinative, weren't you?---Yes.

And that answer may well have been against the proposal, mightn't it?  
---Yes.

10

You had no idea at that stage?---That's correct.

Now, moving on from that particular piece of correspondence, you have some subsequent communications with Pikes and Verekers and they effectively say you've had the advice you're going to get.---Yep.

20

And then you have some further communications with Mr Demian, and I'm going to put to you some propositions about a meeting that took place in August, 2015. Now, you've already been asked some questions about this, but as I understand your evidence you had no recollection of the meeting. I'm going to see whether I can establish any recollection through the documents.---Yep. Can I, sorry, interrupt? Is there any way of referencing that, what I actually said or is it not relevant?

MR PARARAJASINGHAM: I think in fairness the witness should be taken to what he said in the transcript.

THE COMMISSIONER: Yes.

30

MR PARARAJASINGHAM: He's been here for a long time and things have perhaps merged in his mind.

MR ANDRONOS: Sorry, I'll try and get you the reference, but without – I can say, I can say this with some confidence, so far as I can tell you haven't given any evidence about the content of this particular meeting which took place on 7 August. So if you could, or at any rate, before the 10<sup>th</sup>. So if you could have a look at the document at volume 20, page 255.---Yes, sir.

40

This I think is the meeting invitation. Now, this is an invitation to a meeting on 7 August and the invitees are Mr Montague, you and the text of the meeting invitation identifies Charlie Demian.---Yes, sir.

MR BUCHANAN: Commissioner, the way I would approach this document and documents of this type is that it is an email and that it takes the form, as many did, of being a communication to those to whom the email was sent that a person had contacted the division and often wanted to talk to somebody, sometimes a phone number was provided and frequently a subject was identified, but beyond that all it indicates is that Charlie, the

inference that can be drawn is that Charlie Demian had rung the division, spoken to Ms Rahme and said I want to talk to somebody at least, possibly both Montague and Stavis, about Harrison's. So I don't think - - -

THE COMMISSIONER: You don't see it - - -

MR BUCHANAN: It doesn't take the form of a calendar entry as that software printed out those entries, it takes the form of an email.

10 MR ANDRONOS: I take my friend's point.

THE COMMISSIONER: Okay.

MR ANDRONOS: I take my friend's point.

MR BUCHANAN: But, but, sorry, my attention is being drawn to Exhibit 85, volume 30, so this is the calendar meetings exhibit, Exhibit 85, which is volume 30, page 12.

20 MR ANDRONOS: I'm indebted to my friend.

THE COMMISSIONER: Could I just have a look at that, thanks.

MR ANDRONOS: Perhaps more indebted to Ms Ellis.

THE COMMISSIONER: Sorry, if I can just inquire of Mr Buchanan, this page suggests that any conference around this time with those people and Mr Demian in respect of 548 Canterbury Road occurred on 12 August.

30 MR BUCHANAN: That one was scheduled.

THE COMMISSIONER: Yes, sorry, yes.

MR ANDRONOS: Yes, well, there's actually, well, I'll take the witness to the document which in my contention sets out what happens.---Sorry, what page was that on?

Let's short-circuit all this. If you can go to volume 21, pages 98 and 99.  
---Yes.

40

Now, if you can start at the bottom of page 99, this is a communication from you to Stuart Harding. Stuart Harding was at Willana?---Correct.

And Willana were external expert town planners who Canterbury Council had retained.---Correct.

There's an email from you to Mr Harding on 6 August, and you're giving him some instruction on what it is you're asking, a letter that he is to write, we'll say. You accept that?---Ah - - -

Well, what you're asking him to address in the letter, I should say.---Sorry, where are you referencing that?

This is the bottom third of page 99.---99. Sorry. Okay. Yes.

10 And you say, "Your letter needs to also say that, based on the information currently provided, list in bullet points, there is not enough info to support the clause 4.6 submission. List what we need in bullet points and more detail." Then you go on to say, "I also need you to prepare a SEPP 65 compliance table." And then skip down to the next paragraph, "I have a meeting with the applicant tomorrow at 3.00pm, so if you could provide all this to me before then, that would be appreciated. I want to prove to him that what we are saying is true." Now, Mr Stavis, is it reasonable to infer from this communication you have with Mr Harding that you are having a  
20 debate with an applicant concerning some propositions the applicant was putting that you were resisting, and you were looking to Mr Harding to assist you in prevailing in that particular debate?---It was in relation to, just reading my email, it was in relation to a clause 4.6 submission that the applicant had put to us at the time, that I, from the email here would suggest that I wasn't happy with it.

Yes.---Yeah.

And if we just go to the heading of the whole chain of emails at the top of page 98, we're talking about 548 Canterbury Road.---Yes.

30 So you get a response from Mr Harding about the middle of the page. He says, "Can't talk right now but all that's doable." Then your response at 1.50pm on Thursday the 6<sup>th</sup> is, "Organising it now. I basically need to be able to show them specifics on where their proposal fails." Now, do you recall a time when you had in mind you wanted to assemble the information to arm yourself for a debate with the Demian interests where you wanted to demonstrate to them that what they were asking was just not on?---Yes.

40 And that would be on the basis of this chain of emails, a meeting scheduled for the 7<sup>th</sup>.---It's likely, yes.

It's likely.---Yes.

Now, Thursday is the 6<sup>th</sup>, so the 7<sup>th</sup> is a Friday. The 10<sup>th</sup> is a Monday. ---Yes.

So we go over to the bottom of page 98. On 10 August at 5.08pm, so this meeting could have happened during the course of that day, Mr Harding

asks you, "How did the meeting go?" And then a few days later on the 13<sup>th</sup> – so it's possible the meeting in fact took place on the 12<sup>th</sup>, so I withdraw what I said before. It may be that the meeting that had been originally proposed for the 7<sup>th</sup> didn't take place until the 12<sup>th</sup>, and that would be consistent with the meeting invitation in Exhibit 85. So at some time prior to the 13<sup>th</sup>, is this a correct inference? You had a meeting with Charlie Demian, and the outcome of that meeting are these points numbered one to four that you set out in your email to Mr Harding on the 13<sup>th</sup>.---Yes.

10 Now, let's look at these points. "Stuart, after long deliberation he agreed to do the following. Point 1, delete eight units from the top two floors along the Canterbury Road frontage." Do you recall that?---Yes.

"2, give council at least two units which will be leased by council to a community housing provider to provide public benefit." Do you recall that?---Yes.

20 "3, substantially upgrade the materials and finishes of the whole building to improve the quality of the development's appearance." Do you recall that? ---Yes, sir.

And, "4, make improvements to the units within the development where possible to accord more with SEPP 65." Yes.---Yes.

Now, this is a report that you gave to Stuart Harding on Thursday, the 13<sup>th</sup>. ---Yes.

30 And there's no reason that that would not be an accurate reflection of what took place at the meeting that had taken place before then?---No, sir.

Now, the attendees at this meeting were you, Mr Montague and Mr Demian. Is that correct?---I believe Mr Montague was at the meeting, yes.

But you would have had the running of the meeting on council's behalf, wouldn't you?---I think that's a fair comment, yes.

And what you achieved was this outcome that you reported back to Mr Harding?---Yes.

40 What you did is you leveraged council's position in relation to the 4.6 issue to achieve a better public policy outcome in terms of finishes and social housing, didn't you?---When you say leveraged, I'm not sure what you mean by that.

Well, you asked Mr Harding to give you all the reasons that Mr Demian was wrong?---Yes.

And then do you recall if he provided those reasons to you?---I believe he did, yes.

And so armed with those reasons you were able to go into a meeting with Mr Demian and say words to the effect, “Charlie, you’re wrong about these things. If you want anything you’ve going to have to give us some public benefit. Here’s what we want”?---Yes. Something along those lines, yes.

10 And so you actually achieved a public benefit in relation to those four points?---At that time, yes.

At that time. Yes, at that time. Now, this is solutions oriented planning at work, isn’t it?---I believe so.

Yes. Where you’re able to look for a creative solution that advanced the public benefit at the property developer’s expense?---Yes.

I note the time. Are we carrying on or are we - - -

20 THE COMMISSIONER: We might take a five-minute break. All right. Just a very short five-minute break.

#### **SHORT ADJOURNMENT**

**[3.32pm]**

30 MR ANDRONOS: Now, Mr Stavis, we, we just dealt with a meeting which I think we probably agree now that took place on 12 August. So the upshot of that meeting was this, wasn’t it, provided Mr Demian provided the revised plans in accordance with that had been agreed reasonably promptly, you saw no reason at that time why the DA couldn’t go to council for determination before the end of 2015?---Before the end of?

2015.---From August, it depended, there’s a lot of, as long as the stars aligned and he had provided the information.

Yes.---It would have been possible, yes.

40 It would have been possible. And Mr Montague in his usual way was saying, “How quickly can we do this?”---Yes, sir.

And you remember, he wanted it done in October, you said, no, November and he was content with that. You recall that?---That I can’t really recall to be perfectly honest with you.

All right. If you have a look at volume 21, page 206. So, you see, Mr Stavis, the first email in the chain on 24 September, Mr Montague asks you

if there's any chance we can get the DA up to the October meeting of CDC?---Yes.

And then you respond shortly afterwards by saying, "Hi Jim, I was aiming for the November CDC or council. October CDC deadline has closed anyway. We've received the amended plans on the 17<sup>th</sup> and I'm waiting for him to provide a peer review as well." And you go on to say you're also meeting with Charlie next Friday to go over the details of the dedication of units for affordable housing as previously agreed.---Yes, sir.

10

Now, this was just another example of Mr Montague saying can you just do this as quickly as you can?---Yes.

And there would be no reason for him to think that there was any problem with that because it had been the middle of August when an agreement had been reached in the final form as you and he understood it of the development had been determined, the proposal had been established?---In August, yes.

20

Now, Mr Montague wasn't party to any communications between you and Mr Demian through this time?

THE COMMISSIONER: I'm sorry, I didn't hear that.

MR ANDRONOS: Yes, I'm sorry. I might have garbled my words. Mr Montague wasn't a party to any communications that you were having with Mr Demian through this time?---In terms of just any communication?

30

Any communications between you and Mr Demian between the middle of August and the end of September.---That I can't be sure of I'm sorry, sir.

Well, I'll make the suggestion that he was to a very large extent out of the loop in your communications with Mr Demian.---I can't confirm or deny that, yeah.

But you don't have a positive recollection of keeping him informed of what was going on as between you and Mr Demian and his interests in relation to 548 Canterbury Road?---No, I don't have any positive recollection.

40

Now, you were asked some questions in relation to two emails that you sent on 6 November, and you'll remember these. One was an email that you sent to Mr Montague and another is an email that was addressed to yourself but appears to set out what you propose to say to Mr Hawatt. Now, those are at volume 21, 298 and 296. Sir, if you could go first to the 298 version. Now, Commissioner, there have been a number of questions already addressed to this email. I'm proposing to ask a different set of questions about different parts of the email. So this is what you say to Mr Montague in the email at 298. You're forwarding him an email communication from you to Michael

Brewer and you say, "Please see below. It will get sorted in time but I wanted you to see what I've been going through with Charlie's applications. It's always the same story, inconsistent plans, blatant disregard for council's controls, and I'm left with trying to massage to an acceptable level. Frankly that's not our role. Anyway, sorry for the rant but I thought you should know." Now, when you said a short while ago, Mr Stavis, that you would sometimes confide in Mr Montague, this is an example of that sort of confiding, isn't it?---This is, yes.

- 10 But you addressed your email to some specific concerns of Mr Montague, didn't you? By that I'm referring to the first line of the second paragraph, "It will get sorted in time." Now, sorted in time reflected your understanding of Mr Montague's abiding concern that matters be dealt with as quickly as possible. Is that correct?---Yes, sir.

And this concern you understood at the time was simply a matter of getting a result and he was not particularly committed to any form of content of any approved application. That's consistent with your understanding, isn't it?  
---Sorry, can you repeat the question.

20

That Mr Montague's abiding concern was to have things done quickly but he didn't have any particular interest in seeing the content of the application having any particular benefit to anyone. Is that right?

MR BUCHANAN: Does my friend mean application or something else, like a report or a determination or an assessment?

MR ANDRONOS: Yes, okay.

- 30 THE COMMISSIONER: It's a bit confusing.

MR ANDRONOS: Yes, I should be more precise in my language. I understand that. The particular issue that you were dealing with at that moment was the – perhaps you can help me if you look at the document. Was this what the DA was going to, what the ultimate version of the DA was going to be?---I, the, the, can I just have a quick look if that's okay?

Sure.

- 40 THE COMMISSIONER: Yes, sure.

MR PARARAJASINGHAM: Sorry, Commissioner. Can I just ask through you, Commissioner, is my friend referring to the calculations on page 299 when he says this DA? Or is it something else?

MR ANDRONOS: Sorry, I missed the question.

MR PARARAJASINGHAM: Sorry, is my friend asking, is my friend directing the witness's attention to the two tables with the calculations when he says, when he asks the question about this DA? Or is it some other, broader question? It's just not clear.

MR ANDRONOS: Why don't I just withdraw the question and save us all some time?

10 THE COMMISSIONER: Can we just, do you want to take Mr – you're going to ask some more questions about this?

MR ANDRONOS: But without, not asking that question.

THE COMMISSIONER: Can I just – Mr Stavis, have you now read - - -?  
---I, I, yes, I have, yes.

So you're happy to continue?---Yeah. Not a problem.

All right.

20

MR ANDRONOS: Now I think we've established that you understood Mr Montague's abiding concern was with timing.---Yes, sir.

But what the actual application looked like in terms of what was being proposed was something he was less concerned about. Do you agree with that?---Um - - -

THE COMMISSIONER: Sorry, in this circumstance?

30 MR ANDRONOS: In this circumstance.---Well, there was an agreement in that meeting to actually do X, Y and Z. So he was abreast in that regard, and I think in the back of his mind that would have been the expectation.

Going back to the 12 August meeting.---Yes.

Yes.---Yes.

40 But he hadn't been in the loop in all the subsequent communications you had with Mr Demian about that.---Not, not, not everything, no. No, I, I didn't, it wasn't my practice to sort of bore him with these sort of technical aspects of any application, yes, unless it was a major issue.

So then you go on to vent about some of the things that Mr Demian and his team, in your view, always did. That's right, isn't it?---With Mr Demian?

Yes.---Yes.

“Inconsistent plans, blatant disregard for council’s controls.” Now, why did you say “blatant disregard for council’s controls”?---Only insofar as inevitably the application, and it’s an old developer’s trick, ask for more with a view to getting something less. And it was, it was becoming quite tiresome, certainly by the end of my tenure there and also for my staff, that approach.

10 But you were able to put it in your email to Mr Montague in terms of council’s controls because you knew that was something he would be concerned about. That’s right, isn’t it?---Mr Montague, you mean?

Yes.---No, I don’t think I was trying to single that out. It was just merely pointing out a few things to him, nothing different than what I’d already, he knew about that I had expressed to him plenty of times in the past when dealing with Mr Demian.

These are general complaints you had about Mr Demian?---Yes, yes.

20 Now, can we go to the email two pages earlier at 296. Now, this is an email that you sent about 15 minutes, 17 minutes earlier. Now, this is an email from your work email address to your private email address, and I think you’ve accepted in answer to questions from my friend, Mr Buchanan, that this reflected what you intended to say to Mr Hawatt on this issue. Is that correct?---I’d have to check the transcript to see exactly what I said, to be honest with you.

30 Okay. Well, let’s just go to the – on the assumption that this is a message that you were content to provide to Mr Hawatt, we’ll just treat it as an assumption at the moment.---Sure.

40 You say in slightly different terms, “See below. It will get sorted, but this is how it is dealing with Charlie’s stuff. Ordinarily I would have refused this DA long ago. I hope now you understand what I’ve been going through with these applications, always the same story, not submitting information, ignoring issues and then pressuring us to finalise his DAs. I hope he appreciates the effort I’ve put in. It’s not right, mate. He needs to listen and play ball.” Now, you’ve been asked some questions about some of this and I won’t repeat that, I won’t repeat that questioning, but I want to get to some of the differences between what you were prepared to say to Mr Montague and what you had intended at the very least to say to Mr Hawatt. Now, there’s no reference to timing in the email that was prepared first, which is the, “Hi Mike,” email.---Sure.

That’s correct, isn’t it?---Yes, sir.

So after you prepared this email you decided that you needed to put in something about time before you sent something dealing with the same

topic to Mr Montague. Correct?---I don't know if it was that calculated, but  
- - -

Well, I'm not saying there's any specific calculation involved, it's just you,  
you had some language and you chose to use different language - - -?---Yes,  
sir.

- - - and you inserted some language about timing.---I accept that, yes.

10 And that's because you knew that was an issue for Mr Montague but not  
necessarily an issue for Mr Hawatt.---Yes.

Now, you then go on to express things in different terms. You say,  
"Ordinarily I would have refused this DA long ago." Now, you don't say  
that to Mr Montague. Correct?---I, I don't say it in writing, no, but I, I, I do  
- - -

No, I'm just asking you about the emails.---No, sorry, yes.

20 You don't say it.---No.

And I suggest to you the reason you didn't say it is because you knew if you  
said that to Mr Montague he would have said, okay, so we won't accept the  
application.

MR PARARAJASINGHAM: I object. Commissioner, is this not a matter  
for submissions? I mean it's a comparative exercise my friend's going  
through, I can see that. I just wonder how much (not transcribable) there is  
in asking this witness questions about that.

30 MR ANDRONOS: Well, I didn't hear that, but the, but the basis for the  
questioning is that 15 minutes apart he sent different messages and I want to  
know what was in, what his state of mind was in making the changes from  
one version to the second, and that goes to the different position that he saw  
the intended recipients of those two emails and their different interest and  
that goes to the extent that it can be said against my client that he had some  
nefarious purpose in these applications.

40 THE COMMISSIONER: I'm going to allow it. My only reservations is,  
they're questions in hindsight and whether you can include in your question  
whether Mr Stavis can remember whether that was in his mind at the time.

MR ANDRONOS: Well, certainly that was the way I intended the question,  
because I said that the reason he didn't do it was because, so that necessarily  
means at the time but I'll put that expressly.

THE COMMISSIONER: If you can put that expressly, that we're interested  
in – well I'm sorry, I withdraw that. It would assist me if Mr Stavis could

answer as to if he can recall what was in his mind during those half an hour or fifteen minutes when he was drafting the two emails.

MR ANDRONOS: Okay, I'll put it in those terms. Thank you, Commissioner. Now, Mr Stavis, as you will have heard, I'm asking about your state of mind on 6 November, 2015, as best you can remember. We have these two communications you were making, fifteen minutes apart, dealing with the same subject matter, a similar length, but you changed the language as between the two of them. Now, we've talked about timing and now I'm asking you the question about how you said in the, "Hi Mike", email, "Ordinarily, I would have refused this DA long ago", but you don't say anything to that effect in the "Hi Jim", email. Now, my question to you is, is the reason you didn't include that language in the, "Hi Jim", email, which is the one that came second because you knew if you said that to Jim, he would have said, well, then we should refuse the application?---I, look, I, I really don't know why I said that to be honest with you, at, at the time, or what the differences were. I mean, no, I'm sorry, I'd only be speculating.

Well, you accept that you must have had a reason to use different language?---Ordinarily I, I used different language when speaking to the general manager as opposed to speaking to councillors, generally, but the, the tone of them were very similar, yeah.

I'm not talking about the tone, I'm talking about the concepts which you address. Now, the, in the "Hi Mike", email, you specifically indicate that you would have refused this DA. And when you say, "Ordinarily, I would have refused this DA long ago", what is the ordinary course that somehow this is different to?---I think that had, goes towards the fact that this particular applicant, Charlie Demian, was being, had a history of frustrating the planning staff, including myself.

So is this a fair summation of what you're saying? If this was anyone other than Charlie Demian, I would have knocked this back? Is that what you're saying there?---Not necessarily no, no.

What else could it - - -?---I was just trying to make - - -

THE COMMISSIONER: Hold on.

MR ANDRONOS: Sorry.

THE COMMISSIONER: If he can just answer, finish.

THE WITNESS: I was trying to make the point that, to, to impress on them that, or him, Mr Hawatt that, you know, how serious we, I was about, and how frustrated we were.

But what else can the words, “Ordinarily I would have refused this DA long ago”, possibly mean?

MR PARARAJASINGHAM: I object. Commissioner, this very question and this very issue was dealt with at length by Counsel Assisting. I understand what my friend is trying to do here, but in my submission, with respect, doesn’t need to go into this aspect of it. And if I can just come back to the standard direction that – I don’t agree with Counsel Assisting’s gloss, if I can put it that way. This does not differ to a significant degree on the way this issue was dealt with by Counsel Assisting.

THE COMMISSIONER: Mr Andronos, the exercise you embarked upon was the comparison between the language.

MR ANDRONOS: I don’t press the question and I take my friend’s - - -

THE COMMISSIONER: Can we go back to the comparison?

MR ANDRONOS: Yes. Well, that was all in aid of this next question, is, well, why did you say that in one and not the other?---I don't know why I said that specifically to be honest with you, no. I, I really can't tell you why.

Let me suggest this proposition to you. When you said that, “Ordinarily I would have refused this DA long ago,” that reflected your actual state of mind, but you deleted that from the version you sent to Mr Montague because you didn't want him to know that that’s how you viewed this application.---No. I don’t, I don’t accept that. Sorry.

Can you advance any other explanation for deleting that concept from the second email?---I, I believe that I was just as forthright and forthcoming in my advice to both Mr Hawatt and Mr Montague. It’s just a change of words.

All right, well, we’ll leave that. We’ll leave that there. Thank you, Mr Stavis. That’s all for 548, Mr Stavis.---Thank you.

In the remaining time, can I take you to 570 Canterbury Road?---Sir.

Sorry, Commissioner, I'm just going through to see what’s already been addressed in the context of other - - -

THE COMMISSIONER: That’s fine.

MR ANDRONOS: - - - proposals, and it might be that we can truncate by a long way what still needs to be asked. Now, firstly, Mr Stavis, just by way of background, can I just go through the same exercise that we went through in relation to 548. Develop with you my understanding – correct me if I'm

wrong – about where the proposal got to. Now, at the time of your arrival at Canterbury Council in relation to 570-580 Canterbury Road, there was a DA on foot for a six-storey mixed-use development at 570-580 Canterbury Road.---A DA on foot?

On foot, yes. And in May 2015, council sitting as the CDC resolved to prepare a planning proposal to increase the building height for both 570-580 and 538-546 Canterbury Road from 18 to 25 metres.---Can you, can you give me the dates when that happened?

10

Well, 14 May, 14 May, 2015.---Yeah.

And council also resolved, council sitting as the CDC resolved that a proposal be forwarded to the Department of Planning for a Gateway Determination and then placed on public exhibition if the Gateway Determination was given. That all occurred on 14 May, 2015. And as we have discussed in connection with other developments, a resolution of the CDC is a policy decision that reflects the will of council.---Yes.

20

And it's not your function or the function of any member of staff, including Mr Montague, to second-guess policy decisions of the council.---Correct, yes.

Now, you've already given some evidence in relation to meetings that you and Mr Montague and Mr Demian had over the course of various of Mr Demian's projects.---Yes, sir.

30

And I think you have said today that Mr Montague never took Mr Demian's side in any conflict, as between Mr Demian and you?---Not in any of those meetings, no.

Not in any of those meetings.---No, not as far as I can recall, no.

Now, there was a series of meetings in relation to 570 which occurred quite late in the period before the amalgamation of the councils. I'm talking about a period about December 2015 onwards.---Yes, sir.

40

And you might remember from earlier evidence in this Commission a conversation you had with Mr Hawatt where you vent about conduct of Mr Demian at at least one of those meetings. Do you recall that?---Not really, sorry, sir.

Okay. Well, let's, if Mr Stavis could be provided with a copy of the transcript of Exhibit 213.---Yes, sir.

Now, if we go to page 3, or if we start at page 2 about halfway down the page.---Yes, sir.

Words attributed to you identify this is a, that you're talking about a Demian project, being the one on the corner next to Harrison's, and that's 570, isn't it?---Sorry, are we – this is in reference to 570?

Well, my question to you is, is the project on the corner that you're referring to on page 2 about halfway down, which Mr Hawatt identifies as, "The carpet place," is that 570 Canterbury Road?---Yes, because I believe the other corner was 538 from memory.

10 And that was a car wash?---And that was a car wash, yes.

Okay. So if we go over to page 3, you say here, just from the bottom of page 2, "To give something back and argue the extra two floors on the basis it's a better planning outcome. Yep. Under clause 4.6, okay." And Mr Hawatt says, "Yep, yep." Then you say, "So we just, I think we just want to run that by you." Now, who is – the "we" in this case is Mr Montague and you. Is that correct?---I believe so, sir, yeah.

20 "Because I think he wants to see what you think, okay, because he's a bit, he's a bit sort of wary of it." "Now, what's, so Montague's wary of it, what, so Montague's wary of it or," then you say, "Well, yeah. He, he wants to. I told him I can't support it." And then Hawatt says, "Oh, he's not sure he will", and then something inaudible and you say, "I told him I can't support it and he wants to back me but he, he's afraid that, you know, he might cause offence." Now, just pausing there, what you're referring to there, is that you have taken a position contrary to the position that Mr Hawatt is advancing, is that correct? Sorry, I withdraw that. You have taken a position contrary to that which Mr Demian is advancing?---Oh, yes.

30 And you are supported in that by Mr Montague, correct?---I believe so, yes.

But the two of you thought that it would be wise to get the input of Mr Hawatt, is that correct?---Yes, I believe so at that time.

And from your own point of view, is that because you saw Mr Hawatt as being the person closest to Mr Demian?---No. I think that actual, I guess, instruction, if I could call it that, was Mr Montague wanting me to have a chat to Mr Hawatt about what he thought.

40 Well, why did you think Mr Montague was asking you to have a chat with Mr Hawatt?

THE COMMISSIONER: Did Mr Montague actually ask you to do that? ---Yes, yes. Why? Well, at that, I guess because Mr Hawatt was, he was part of the meetings we had with Mr Demian for, and I'm not sure what his state, Mr Montague's state of mind was in terms of that, sorry.

MR ANDRONOS: Of course, of course but you thought it would be a good idea to get Mr Hawatt involved?---I didn't disagree with it. I mean, that was what Mr Montague wanted me to do, so - - -

Because if you thought, if Mr Demian was going to listen to anyone from council, it would be Mr Hawatt, is that right?---It would certainly go to the councillors, that's for sure, yes, and one of which would have been Mr Hawatt, yes.

10 He wouldn't bother with you and he wouldn't bother with Mr Montague?

THE COMMISSIONER: Well, there's two - - -

MR ANDRONOS: Okay. He wouldn't, well, he'd already exhausted the line of communication with you, hadn't he?---Yes.

And Mr Montague had already been involved and there wasn't any resolution with Mr Montague involved either, was there?---I, I, not in my presence, no, no.

20

And so the logical next step was to see whether there was anybody else who Mr Demian could talk to, who might be able to persuade him to your point of view?---Yes. Oh, it's certainly not beyond the realms of possibility, no.

And that person, logically, was Mr Hawatt, wasn't it?---As far as this application went, yes.

30 Commissioner, I have a new topic to go on to. There are two administrative issues that I understand from my friends at the bar table arise. One, and I think you have already foreshadowed in your direction this morning about what time we would rise. We'd need to rise at 4.25 because somebody has an unbreakable commitment.

MR BUCHANAN: Me.

40 MR ANDRONOS: And I understand my friend, Mr Pararajasingham, wishes to foreshadow a particular application, and before I move on to another topic, in order to comply with the 4.25 I would ask your leave to stop the cross-examination for the moment. I should say, Commissioner, I am almost through. I would be surprised if I go more than half an hour on Monday.

THE COMMISSIONER: All right. Now, thank you, Mr Andronos. I think I know what Mr Pararajasingham's going to raise. Before he does that, can I just have a very quick indication, Mr Neil, how long do you think you'll be?

MR NEIL: I might finish by lunch but more likely go into the afternoon.

THE COMMISSIONER: All right. Mr Drewett?

MR DREWETT: Commissioner, I'm still less than one hour, perhaps 40 minutes, 45 minutes perhaps.

THE COMMISSIONER: And Mr Pullinger?

MR PULLINGER: Half an hour to 40 minutes.

10

THE COMMISSIONER: And Mr O’Gorman-Hughes, I did - - -

MR O’GORMAN-HUGHES: My position hasn’t changed, Commissioner.

THE COMMISSIONER: I haven’t forgotten anybody? Right. Mr Pararajasingham?

20

MR PARARAJASINGHAM: Commissioner, I flagged this with Counsel Assisting. I would like an opportunity at the conclusion of the questioning by others of Mr Stavis to conference him about the matters raised over the last 19 days. Can I say this, irrespective of that, I won’t be very long in my questioning, but I would appreciate that time. Look, ideally, and I suppose it depends on when we finish on Monday or if indeed we spill over into Tuesday, up to half a day would be ideal. And I see that you’re smirking, Commissioner, but that’s what I’m asking for. But that’s my position.

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THE COMMISSIONER: It’s difficult without knowing when we will finish with the other counsel. Can I put just a hypothetical example to you. For example, we finish, Mr Pullinger finishes Monday afternoon – oh, sorry, we’ve got to finish at 4.00 on Monday for you?

MR PARARAJASINGHAM: Yes, yes.

THE COMMISSIONER: All right. Let’s assume Mr Pullinger finishes at 5 to 4.00. Would you still, are you anticipating, I’m sorry, your application would be that you would commence when on Tuesday?

MR PARARAJASINGHAM: Perhaps – just one moment.

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THE COMMISSIONER: Yes.

MR PARARAJASINGHAM: Perhaps midday to commence, which would give me the morning effectively.

THE COMMISSIONER: All right. Mr Pararajasingham, can I take – you’re not formally making the application, you’re flagging it?

MR PARARAJASINGHAM: I am flagging it and I, as I said, I've raised it with my learned friend, and without meaning to verbal anyone I understand there's no major objection to what I'm asking for.

THE COMMISSIONER: I think it's how long.

MR PARARAJASINGHAM: Yes, yes, now I understand that.

10 THE COMMISSIONER: Because as you, you know, to state the obvious, this has gone on, the inquiry, we're very keen to progress it, but I do concede Mr Stavis has been in the witness box, you haven't, my understanding is with the exception of Ridgewell Street, which you raised with Counsel Assisting because of the new materials and you haven't been getting instructions or discussing matters with Mr Stavis while he's been giving his evidence.

MR PARARAJASINGHAM: That is correct.

20 THE COMMISSIONER: Thank you for indicating it. Can I take it on notice?

MR PARARAJASINGHAM: Certainly.

THE COMMISSIONER: And then can we revisit it when we do get to that stage.

MR PARARAJASINGHAM: Yes.

30 THE COMMISSIONER: Yes, we'll do that.

MR PARARAJASINGHAM: Thank you, Commissioner.

THE COMMISSIONER: Anything else before we break at 25 minutes past? All right. We'll now adjourn and resume at 9.30 on Monday morning.

**THE WITNESS STOOD DOWN [4.23pm]**

40 **AT 4.23PM THE MATTER WAS ADJOURNED ACCORDINGLY [4.23pm]**