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PATRICIA McDONALD SC
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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 17 OCTOBER, 2018

AT 2.00PM

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

MR BUCHANAN: Commissioner.

Mr Montague, I just want to take you to a couple of events in the period leading up to Mr Occhiuzzi's resignation, the letter of resignation was dated 10 October, 2014. Have you still got in front of you Exhibit 54, the transcript of Mr Occhiuzzi's notebook?---Yes.

10

Can I take you to the eighth page, the last page, please, and there's an entry there for 19 September, 2014, the last entry that bears that date. Do you see that? And it reads that the GM requested that he, that is to say you, be given a copy of the IHAP report for the DA for 570-574 New Canterbury Road prior to being listed on the IHAP paper. And down below it says, "I note that I can't recall the GM wanting to review a report prior to going to IHAP." Mr Occhiuzzi meant before.---Yeah.

20

Do you recall making that request?---No, I don't, and I'm not familiar with 570-574 New Canterbury Road as distinct from Canterbury Road.

Yes. Did you ever ask Mr Occhiuzzi for a report that was proposed to go to the IHAP?---I could have, I could have, that wouldn't have been uncommon.

Mr Occhiuzzi records in the last sentence for that entry, "He said to me that I should learn to stop hitting my head against a brick wall."---Yeah, well
- - -

30

Is that something you said?---Possibly, possibly, yeah, another a turn of phrase.

40

Meaning?---Well, I don't know the circumstances of this particular application so I can't speak specifically in relation to it, but it would have been the sort of thing where I'd be suggesting to him that he take a more conciliatory approach perhaps, not be quite as stubborn, if you like to use that word, even though I expected that he would maintain the highest ethical standards in the job, but that would mean that he'd just allow things to sit and not get processed. My concern was always the processing times and the delays.

Would another way of putting it be that you wanted, or the message you were trying to give Mr Occhiuzzi was that you wanted him to be a bit more flexible?---No, I wouldn't say flexible, maybe, maybe just a little more attentive to the time delays and things and what his staff are doing.

But in this case it sounds as if, from Mr Occhiuzzi's report, it wasn't the timing, it was content of the recommendation.---Mmm, it's possible but I

can't recall now why I would, it was very, it's not common, it wouldn't have been common for me to do that because the IHAP is completely independent of the council, I had no control over the IHAP whatsoever.

But you knew of course that the process was that an officer's report would be prepared for the IHAP and that then with no more than an amendment referable to the IHAP report itself, report by the IHAP, it would go to council or the CDC. The report that the IHAP got would go to the CDC. ---Yes, along with the report from the officers.

10

No, I'm sorry, sir, we are at cross purposes. I'm sure it's my fault. The process as you understood it for a DA that was to go to the IHAP where it needed to - - -?---Yep, yep.

- - - was that there was an officer's report with a recommendation and it went to the IHAP?---Yes.

That report, unchanged except in one respect, then went to the CDC - - -?
---In most circumstances - - -

20

- - - or council as the case may be.---In most circumstances that's the case but not always, there were exceptions to that because the IHAP, as I said, was independent with its own people on, on there who were independent of the councillors and the council and the council staff. So you couldn't predict which way IHAP might go.

Yes. Well, that's what I want to suggest to you, that the only change that was made to the officer's report that was prepared for the IHAP before it was read by the councillors was to include the IHAP report in it and a brief summary of its recommendation or outcome.---Well, I don't, I don't recall that and as I said, I'm not familiar with that particular address, 570-574 New Canterbury Road.

30

Now, on 23 September, 2014 I want to suggest to you, you signed a performance review for Mr Occhiuzzi. This is volume 24, page 6. I'm sorry, I've put up the wrong, I must have given you the wrong citation. ---This is my performance review actually.

I do apologise, it's my fault. I've given you the wrong document. You don't need to worry yourself about that at the moment. We've asked questions of you about that.---Okay.

40

We'll put it up on the screen for you. So, I'm showing you, just for the record, Commissioner, it's an annexure to Mr Occhiuzzi's first statement in Exhibit 53 and it's the last page of the performance appraisal for Mr Occhiuzzi.---Yes.

And you can see the dates and you can see your signature.---Yes.

And can you see that the content of it is, "Met his KPIs"?---Yes.

And, "Met and exceeded expectations as to organisational behaviours".
---Yes.

You, I take it, signed that because you agreed with it?---I agreed that Mr Occhiuzzi, notwithstanding some issues I had with him, was doing a good job, yes.

10

Well, you agreed with the contents of the appraisal?---Yes.

Now, you've seen that on 2 October, 2014 there was a meeting of council which considered the planning proposal based on the Residential Development Strategy, as amended in October 2013, and that Mr Hawatt and Mr Azzi moved amendments to the planning proposal, contrary to the advice that Mr Occhiuzzi included in his officer's report on that subject to that meeting.---Yes.

20 And then there is Mr Occhiuzzi's resignation itself. It's Exhibit 55. The main thing I just wanted to – it hasn't got much by way of content but I just do need you to have it front of you - - -?---That's fine, yeah.

- - - so that you can understand - - -?---Yeah, I understand.

- - - the purpose of my questions.---Yeah.

It's dated 10 October, 2014.---Yes.

30 Which was a Friday. Do you know whether that's the date on which you received it?---No, I couldn't say. It could have been a day or two or it could have been the following week.

And the resignation was effective 7 November, 2014?---That's correct.

Mr Occhiuzzi didn't really put anything in his letter as to why he was resigning?---No.

40 What do you understand to have been the reason or reasons why he resigned?---Well, I can only speculate about that.

Well, is it really speculation?---Well, yes and no. I, I think he was unhappy and, and just leave it at that.

Why do you think he was unhappy?---You had to know Marcelo to, to understand this, but he was a, a very proper person and I think he just felt that he was, he'd come from Parramatta where he'd had a lesser role and I

just thought that he felt that he was being submitted to too, subjected I should say, to too much pressure from various sources.

And those sources were primarily Mr Hawatt and Mr Azzi on the one hand?---Well, they, they were certainly part of it, I was part of it in a way.

Well, that's the other hand.---Yeah, that's right, but I was part of it and I don't deny that.

10 The three of you put Mr Occhiuzzi under so much pressure that he resigned.---No, I wouldn't - - -

You know that, don't you?--- I wouldn't go that far.

Why not?---Because I don't think it's true.

20 What's untrue about it?---I think there were issues within the office himself, within his own office, resourcing and that sort of thing, that, that was of concern to him even though I repeatedly told him I was happy to make more staff available. I think it was a combination of factors and I, I can't, I, you know, he didn't, he didn't express to me. He, he certainly didn't articulate to me the particular reasons why he wanted out but I got the impression, that's all it is, that he wasn't very happy at Canterbury.

30 THE COMMISSIONER: And when you say resourcing within his office, that's employees or planners to do the work, is that what you - - -?---Staff. Quality staff. Planners were very hard to get – they still are, by and large, in the sector – and we had a particular issue at Canterbury attracting and retaining quality planners, and that's not new. That happened, that's been happening for years.

MR BUCHANAN: You felt that Mr Occhiuzzi had been a failure for a variety of reasons?---No, I didn't think he was a failure at all. I thought he was a good, a good director. He certainly seemed to have the support of his staff and he was a very likeable person. He was a very good man.

40 And as at the time of his resignation there'd been a lot of criticism of him? ---Some of that I thought was unjustified given the resourcing and other issues.

By which you mean some of it you thought was justified?---Yes, and I alluded to that earlier.

Mr Montague, you gave a couple of electronically recorded interviews to Commission investigators in the course of this investigation, didn't you? ---Yes, I did.

If Mr Montague could please be shown the second interview transcript in Exhibit 53. It'll have to be on the screen. This is dated 9 March, 2017. If we could have a look at the front page. If you could just familiarise yourself with that front page. Is this the first time that you have seen a transcript of the interview conducted with you by Commission investigators on 9 March, 2017?---No.

Have you read the transcript?---Yes.

10 Could we go, please, to page 12.

THE COMMISSIONER: Have you read through it recently?---Fairly recently, yes, Commissioner.

MR BUCHANAN: Do you see there in the middle of the page at line 14 you say, "And council in all probability would have accepted that recommendation. I went the extra step by creating a panel." This is about the interview panel.---I see. Right.

20 "So that the Mayor in particular and the councillors who were interested could actually have a ownership of this appointment because we failed before. The previous planner was a failure for a variety of reasons and there was a lot of criticism of him."---Yeah, I said it. You know, but now sitting here and this so much time later and, you know, I don't, I think that was a poor choice of words. I don't think he was a complete failure but there were some areas where I thought he could have performed better but it wasn't enough in my view to terminate his employment.

I'm sorry. It's been suggested I should take you to another - - -

30 MR ANDRONOS: No, just the whole paragraph.

MR BUCHANAN: "The previous planner was a failure for a variety of reasons and there was a lot of criticism of him." You accept that you said that?---Yes, I must have.

40 "The guy before that who had been there a long time really didn't achieve a lot in all those years so I thought this is a key appointment. It's something that councillors are vitally interested in, the Mayor is interested in. I've got to make sure that they have ownership of this process."---Yes.

I'm not quite sure but your counsel seemed to think that you needed to know that. When you said "the previous planner" you were referring to Mr Occhiuzzi?---No, I wasn't.

Who were you referring to?---I was referring to Robert Davidson.

Who was the guy before that?---Robert Davidson was before Marcelo and before that it was a fellow by the name of Don Sheffield.

You're making there two - - -?---At least I think that's what I'm saying.

You're talking about two different people when you were speaking to the investigators there. The first person you spoke about you described as the previous planner and the second person you described was the guy before that.---Well, that's Davidson. That's what I'm saying.

10

And the previous planner is the person you said who was a failure for a variety of reasons - - -?---Was Occhiuzzi.

- - - and there was a lot of criticism of him?---Was Occhiuzzi. Was Occhiuzzi.

And at the time that you're forming that panel the previous planner was Mr Occhiuzzi?---Yes.

20

Thank you. Is it fair to say that, looking back on it now, Mr Occhiuzzi was pushed out of his position, he was pressured to leave?---I think another person may have reacted differently. I mean that's how he felt. I don't know if I had been in the same position I would have reacted like that. Maybe, maybe other people would have toughed it out and tried to stay because he'd come from Parramatta and a much lower rate, a much lower position than at Canterbury. It was, it was a career high for him to get that job. I don't know what went through Marcelo's mind but I was disappointed when he, when he did pull the plug.

30

Well, you weren't disappointed, were you?---I was.

This was your opportunity to fix the problem that you saw that essentially Marcelo Occhiuzzi personified ossification and conservative, overly-conservative approach, a lack of flexibility, things taking too long to process.---Yes, but that was the case with his predecessor and his predecessor, that wasn't new, and that, that, if, you know, if you're going to look at it in totality, the guy also brought some, some good features, some good virtues to the role.

40

Whether it was old or new, you thought new blood needed to be brought in, didn't you?---I didn't think it would hurt.

And you told Mr Occhiuzzi that he would have to consider his position - - -? ---I could have said that to him.

- - - when you were giving him basically the first warning you gave him? ---Ah hmm.

Didn't you?---Well, I could have said that to him, but he did get his contract renewed.

You know of the fact that Mr Occhiuzzi got rolled twice in a row on the Residential Development Strategy by council led by Mr Hawatt and Mr Azzi, don't you?---Yes.

10 So you don't think that taking into account also how Mr Azzi treated Mr Occhiuzzi, taking into account for example the 23 Croydon Street incident, that Mr Occhiuzzi wasn't pushed out of his position and pressured to leave council?---Depends by, who you're saying pushed him out.

You and Mr Hawatt and Mr Azzi.---No.

Now, why do you think Mr Occhiuzzi left?---As I said earlier, he was unhappy in the role. Maybe he was, maybe he was - - -

20 Why do you think he was unhappy?---Maybe he was out of his depth. He, he'd come, as I said, from a much lower position at Parramatta and this was a big role, I thought at the time he was up, up to it, maybe I was wrong.

Can I take you to another interview that was conducted of you by Commission investigators, this time on 3 November, 2016, and if we could have a look at the first page of that, please. Can you see that that's the first page of a transcript of an interview conducted of you by Commission investigators on 3 November, 2016?---Yes.

30 And if we could go, please, to pages 12 to 13. Do you see that the third entry from the bottom is Investigator Berry saying, "Okay. The previous person holding that position at Canterbury Council was Marcelo Occhiuzzi?" You said, "That's right." Berry asked you, "Do you know why he left?" And you said, "No."---Well - - -

That was untrue, wasn't it?---Maybe I misspoke then but, look, it depends how the question was couched.

The answer you gave to that question was false or misleading, wasn't it, to your knowledge?---No, I don't believe so.

40 Why not?---Because that was, that was an interview, what date was that?

That's November 2016.---I didn't know the specific reasons why he left, you asked me in general terms and I said I thought he was unhappy in the role.

You couldn't remember in November 2016 that the man was unhappy in his role. Is that what you're telling us?---Well, it's a different set of circumstances, a different environment entirely. I was under pressure.

And what are you talking about now?---About the interview that was conducted by Mr Berry.

THE COMMISSIONER: You were under pressure?---Yes. Well, I felt it.

MR BUCHANAN: What did you mean by that when you just said - - -?
---Well, I meant, I meant that the way the interview, I mean I don't want to go into the details of the interview, but the way it was conducted, I, I felt I
10 guess a little bit defensive.

Does that mean that you knowingly gave false or misleading - - -?---No.

- - - information to the investigators?---No, no.

Is that a reason you're giving for giving false or misleading information to the investigators on that occasion?---No.

Why are you telling us that then?---I don't know what you mean. What do
20 you mean, why am I telling you what?

Why are you telling us that you felt under pressure during that interview?
---Well, I did, it was just me, the way I felt. I hadn't been through anything like that before.

Excuse me. Can I take you to page 69 – and we'll do it on the screen if possible – of the transcript of that interview. Can you see that at the top of the page Investigator Berry said, “All right, look, I don't propose to ask you any further questions about this matter, Jim, okay? Are you happy in the
30 manner, the way the - - -” You answered, “Yes.” Berry said, “- - - interview's been conducted today?” You said, “Yes.” Berry said, “Have the answers you've - - -” You interrupted and said, “I've probably said too much and you, I took in, on, on board what you said to me, that I didn't have to be here, it was voluntary, but I took the view that, you know, I should participate as much for, as for council given the current circumstances particularly and I, you know, I've got no qualms about - - -”
Question, “So the answers you provided today have been your own, of your own free will?” You said, “Yes”, and you went on to say, “And to the best of my knowledge complete.” Do you see that?---Yes.
40

Were those answers correct?---At the time, yes.

Thank you.---That's how I, I would have felt at the time.

Can I ask you – excuse me a moment, Mr Montague. You, in your interview on – no, I withdraw that. Now, in part you've answered this but I'll just give you an opportunity of addressing it front on. Were you in fact happy to see Mr Occhiuzzi go?---No, not particularly.

Did you want to have a director who took a bolder approach to development?---Didn't enter my head then. My issue was to replace Mr Occhiuzzi.

But before Mr Occhiuzzi left, you wanted him to be bolder in his approach to development in the Canterbury area?---I never expressed that to him. I told him to do his job.

10 No, no, no, no, no, no, no. Before Mr Occhiuzzi left, did you want him to take a bolder approach to development in the Canterbury area?---No.

You didn't want a bolder approach to be taken to development in the Canterbury area, is that what you're telling us?---I wanted, I said earlier, that from my view as a layman, as a non-planner and somebody that knew the areas very well for many, many years, I felt that it had lagged behind neighbouring council areas, that's all. And I would have, I would have liked to have seen that change.

20 Did you also think that there were population pressures and government pressure and strategies related to population pressure?---Of course there was.

Did you think that, at the rate you were going, you weren't going to accommodate those pressures unless a bolder approach was taken to development.---No. I didn't look at it in those terms. I thought we could make it, given the strategies that had been enunciated by the council.

30 By doing what?---By setting, well the RDS for example, things like that that would achieve - - -

THE COMMISSIONER: The what sorry?---The Residential Development Strategy. Sorry, Commissioner. That would have achieved additional housing stock to accommodate the increase in population which the government anticipated or wanted, the State Government.

40 MR BUCHANAN: Would it be right to say that in say October 2014, when Mr Occhiuzzi left, you wanted a DCP who would take a facilitating or facilitative approach to development?---No, it wouldn't be true to say that.

You didn't want a director of city planning who would make it easier for proponents of development to get their applications approved?---No. Not in so many words, no.

What do you mean by not in so many words?---Well, I didn't have a particular objective in mind. I didn't sit down and think oh, I need a planner that's going to approve all these or get - - -

But did you have a general feeling that that was what you wanted?---No. I didn't think about it. I just wanted to replace, I wanted a senior planner to run the planning division.

Yes. Before Mr Occhiuzzi left you wanted a bolder approach taken to development. You wanted development to be facilitated to a greater degree than was occurring under Mr Occhiuzzi's watch, didn't you?---No. That might have - - -

10 You wanted to accommodate population pressures, didn't you?---Well, the council had to do that.

Thank you. And you wanted to accommodate government strategies to take in a greater amount of population into the local government area, didn't you?---Again, that's what the government wanted.

These are things that you wanted to do because of the government wanting to do that?---Yes, I guess I did.

20 Thank you.---Trickle-down effect, yes.

Now, did you hear or see – I'm changing the subject now.---Yeah, that's all right.

Did you hear or see any reaction by Mr Hawatt to Mr Occhiuzzi leaving Canterbury Council?---No. No, I don't, he may have said, I really can't recall but he may have said good riddance or, you know, maybe, I don't know. Whether he said that to me or just said it in company I've got no, I don't recall that.

30 It wouldn't have surprised you if he'd said good riddance, would it?---No.

I'm not saying he did I'm just saying.---No, it wouldn't have surprised me.

And did you ever hear Mr Hawatt use a particular expression to describe Mr Occhiuzzi to the effect of Mr No?---No. No, not that I recall.

Did you hear or see Mr Azzi's reaction to Mr Occhiuzzi leaving council? ---Very similar to Mr Hawatt's.

40 Of the nature of?---Good to see him go. You know, he's, he's got in our way more or less.

So you did hear or see a reaction on the part of Mr Hawatt as well?---Well, as I said, I, I can't be certain but I think he may have said good riddance. Now, when that was said and where I've got no idea.

Would it be fair to say that you wanted, once you had Mr Occhiuzzi's letter in your hand, a DCP whom Hawatt and Azzi would be happier with than they had been with Occhiuzzi?---Yes, and, and that goes to the whole council not just those two.

But the pressure you were under was from Hawatt and Azzi, wasn't it?
---There was some pressure exerted on me by those two, yes.

10 They were the junta, weren't they?---No, the junta was the group of seven who comprised Labor and non-Labor councillors out of 10. They had the numbers. That was the group.

Can I suggest to you that you used that expression "the junta" on a number of occasions speaking to all sorts of different people in reference to Hawatt and Azzi?---Yes.

20 At the time did you think Mr Occhiuzzi's resignation and the circumstances of it had any implications for governance at council?---I don't know what you mean by governance. In what respect?

Well, good governance. Do you think that there was any improvement to governance or enhancement to governance at council by reason of the departure of Mr Occhiuzzi and the circumstances in which it occurred or do you think there might have been a diminution or an adverse impact on good governance by reason of his departure and the circumstances in which it occurred?---No, I don't think so because those systems we had in place for governance, they didn't depend on one individual. They applied to the whole organisation and those systems were robust and they wouldn't be varied, be varied because Mr Occhiuzzi left us.

30 Or the circumstances in which he left?---Yeah, no, wouldn't make any difference. Those systems would still be in place.

And so I suppose you're going to tell me you'd give the same answer in hindsight as you sit there today, you don't think that the departure of Mr Occhiuzzi in October 2014 and the circumstances in which it occurred had any implications for governance at council?---I don't believe so, I don't believe so, no.

40 Can I turn now to Mr Hawatt and you. How long as at 2014 had you known Mr Hawatt?---I'm just trying to remember when he joined the council. He was probably the longest-serving councillor, so that would probably go back, I'm guessing now, I can't honestly remember - - -

Your best estimate?---Probably, he was, he probably joined the council in the late '80s or the early '90s.

Ah hmm.---So it's that sort of time frame.

And you've I suspect at least given in part an answer to this question. Did your relationship with him change over time?---It changed after 2012. Up until then he was just one of 10 councillors and I tried to treat them all identically. I had no particular relationship with Councillor Hawatt until 2012.

And what happened in 2012?---Well, as I said earlier - - -

10 Apart from the fact there was an election - - -?---Yep.

- - - and a new council.---Well, he, he had a lot more power after that election by virtue of the formation of that group of people that changed, as I said earlier I think, changed the council forever.

And in terms of your relationship with Mr Hawatt, did it change?---No. Look, well, it did, because I had more contact with him by virtue of the way he wanted to do things and he was, look, how could you describe it, and he acted at times like he was the man.

20

In his dealings with you and as far as you could see with others as well?
---In his dealings generally.

And we're going to be coming to it in a little bit more detail later. Then there was Christmas 2014. Obviously to put it mildly there was a falling out between you and Mr Hawatt as well as Mr Azzi at that time?---Yes.

But after Mr Stavis started work on 2 March, 2015, there had been a reconciliation?---Yes.

30

Of sorts at least.---Of sorts.

Is that right?---Yes.

Was the relationship you had with Mr Hawatt after Mr Stavis started work in March 2015 different at all from the relationship you'd had with Mr Hawatt before you had come to offer Mr Stavis a job?---I think it's fair to say the relationship was more harmonious after that, because up till that period, the end of '14 on it was anything but.

40

So a sort of trial by fire?---For, for whom?

And in the period 2014-2016 you had a relationship with Mr Hawatt which was different from your relationship with other councillors?---No, I wouldn't go that far. I have very, I had official contact like during working hours and even after working hours, I didn't have a lot of contact with him at all really and no different to the other councillors. Some, they had all, sorry, they all had different personal circumstances which means they had,

perhaps had more time to contact the council officers, some more than others, so no, I, I don't say that the relationship changed.

Well, sorry, I'm just actually trying to establish, wouldn't it have been the case that the nature of the relationship you had with Mr Hawatt in '14-'16 was different from the relationship you had with other councillors, did you not have a, let's call it a more intense relationship with Mr Hawatt?---No. I've said already that I didn't have that much day-to-day contact with him. I'd get the odd phone call or maybe a text, although they were infrequent, and most of the contact was at council meetings or committee meetings and it was pretty clear to me that he had this newfound power and that changed his, I suppose his relationship with a lot of people, including me.

So, you wouldn't accept a suggestion that you had a different relationship Mr Hawatt to the relationship you had with other councillors, other than perhaps Mr Azzi?---No. No, in general terms I wouldn't.

That's your evidence, thank you.

20 THE COMMISSIONER: Can I just ask you, the junta, which councillors did you consider, you identified seven of them, so it's Mr Hawatt, Mr Azzi and who else?---Well, I say councillor, but all the ones you can take out, but I'll include them. There was Azzi, Hawatt, Adler, Kebbe, Saleh, Vasiliades, Ken Nam and so, on the other side, I guess was the Mayor, Councillor Eisler and Councillor Paschalidis-Chilas and I hope that adds up to 10.

It does. And again, out of interest, do you say the change you've identified was 2013?---Yes.

30 And even though Mr Hawatt had been a councillor, the change in the make-up of the council meant that he had more power.---Yes.

Out of the seven you've identified, were the majority of those, were they new on the council or - - -?---No, no, they weren't. Some of them in fact were old hands. People like Councillor Adler and Councillor Kebbe had been around a while, Con Vasiliades and Ken Nam were more recent but I'm, I'm thinking they were in their second term, I, I, I could be wrong there. They, they weren't, no, they weren't new in that sense. Councillor Eisler had been around for a while. What I meant by that was that pre-'12, Canterbury was identified as a Labor-dominated council, there were more Labor councillors than any, any other party.

But that was still 6/4.---Ah hmm, well - - -

With Labor in 2012.---If they stuck together as a group, including the Mayor of course.

So, you're suggesting there was more divergence or disagreement within the Labor members?---Well, what I'm suggesting is that the Labor councillors saddled up with some of the non-Labor councillors to form that group of seven.

And sorry, how do you explain it? Is it personalities or - - -?---I can't answer that question. I don't know, it distressed me at the time. It was, it was a lot of personalities. There were people just didn't get on and I'm talking about the councillors now, at a political level which is not - - -

10

So, even within the same political party they didn't get on?---Yes, yes.

Sorry, Mr Buchanan.

MR BUCHANAN: Thank you, Commissioner. In the period of 2014-16, did Michael Hawatt have an influence over how you did your job as general manager?---No. Are you speaking specifically about planning issues?

Michael Hawatt.---Planning issues or generally?

20

No, planning issues.---No, not really. He'd make his views known. I, I often ignored them as other people did. In the end, my view was that the thing goes to council for determination or the City Development Committee.

And now I'll reframe the question. Did in the period of 2014-16 Michael Hawatt have an influence over how you did your job as general manager, leaving planning issues directly aside?---No. I mean, there are a whole range of issues that I got involved in, as you'd expect. Planning's only part of it.

30

Did Michael Hawatt have an influence on your appointment of Spiro Stavis in December 2014?---Well, we need to drill through all that, and I'm sure you'll come to that later, but that's what the, that's why the panel was formed, to give - - -

Yes, but that's not an answer to my question.---Sorry. Can you repeat the question?

40

What I'm asking you is, as you sit there today, taking a bird's eye view, in the period of 2014-16 did Michael Hawatt have an influence over how you did your job as general manager in appointing Spiro Stavis in December 2014?---Well, he did by virtue of that fact he was on the panel.

Only that?---Yes.

Did he have an influence over how you did your job as general manager when you decided to allow Mr Stavis to start work pursuant to the offer of employment?---No. I think he was pleased that Mr Stavis finally was

appointed. I mean, we've got to go through all that, traverse all that, but that was an extremely volatile period of time, very, very turbulent. One I don't care to relive, but - - -

Yes, I understand that, but what I'm trying to do I suppose is dive to the end of your recollection of that process and ask, looking back on it, do you think that those two decisions of yours or either of them were made if only in part because of influence Mr Hawatt had on you?---No. In relation to the panel it was, as I said I think in statements I've written, I think it's come up
10 already, my issue was I thought it was a thought bubble. My thought was at the time get the council to have ownership of this appointment so that we don't go through the same difficulty we went through with Occhiuzzi.

Yes. Thank you. Can I ask you now about Pierre Azzi. How long as at 2014/16 had you known Mr Azzi?---Since he was, since he was elected to the council and I'm pretty, 2012 I think that was, yeah. I knew nothing about Pierre until he was elected.

And was the relationship you had with Mr Azzi in 2014/16 different at all
20 from the relationship you had with Mr Hawatt?---Well, after hostilities begun it was pretty much the same. If anything, Pierre was more aggressive with me than Hawatt was.

Now, before hostilities at Christmas 2014 - - -?---Yeah, yeah.

- - - was the relationship you had with Pierre Azzi different at all from the relationship you had with Michael Hawatt?---No, not really.

After Mr Stavis started work in March 2015 was the relationship with
30 Mr Azzi different from the relationship you had with Mr Hawatt?---No, but the heat had been taken out of, out of the situation in relation to both of those councillors.

You visited Mr Azzi's house from time to time in 2014/16, didn't you?
---Yes.

When did you first visit Mr Azzi's house?---I can't recall but the number of the visits were increased after, after the amalgamation in May 2016. There were more visits then but that's, and there were numerous other people at
40 those meetings as well. I didn't make a habit of going to any councillor's home on a regular basis until after the amalgamation.

Did you in 2014/2016 – and when I say that I now mean from the commencement of 2014 to May 2016 when amalgamation occurred, thinking of that period not the after-amalgamation period – go to Mr Azzi's house more often than the house of any other councillor?---Yes.

And how often – I withdraw that. How many visits did you make to Councillor Azzi’s house in 2014/16?---I couldn’t say.

Before amalgamation?---Numerous.

What was the nature of the visits you made?---Social mainly.

Did you socialise with Pierre Azzi other than visiting him at his house?
---No.

10

Did you socialise with Mr Hawatt?---No.

In the period 2014/16 did Pierre Azzi have an influence over how you did your job as general manager?---Not really. Pierre made his, his, his views known pretty clearly in a way Pierre could but I ignored most of it.

Did Mr Azzi have an influence over your appointment of Mr Stavis in December 2014?---He was on the interview panel. The same answer as Councillor Hawatt.

20

Yes. I hear you when you say that, but my question actually is a little bit broader.---Yes.

Did Mr Azzi have influence on how you did your job as general manager and appointing Spiro Stavis as director of city planning in December 2014?
---Beyond participating in the panel and ventilating his, his, his thoughts, no. I mean, he, it’s in evidence. There’s no point not saying it. He said to me on one occasion, “If he doesn’t get the job, find a job for him.” So if that’s him trying to influence me, how I did my job the answer is yes.

30

So when you say his thoughts, what are you referring to?---Well, what’s going through his head.

Yes, but being conveyed to you?---Yes.

Being conveyed to you in meetings?---Usually over the phone.

Usually over the phone.---Mmm.

40

In any meetings at all?---It could have been, it could have been a meeting in my office. I mean what would happen, councillors would come in say before a council meeting to go over business papers et cetera, so he might have popped into the office.

I’m sorry, it’s my mistake, I should have made it clear. I’m still on the subject of whether there was in your opinion any influence on how you did your job as general manager in appointing Spiro Stavis in December 2014, from Mr Azzi, and you’ve referred to the interview panel.---Yes.

You've referred to communication of Mr Azzi's thoughts.---Yep.

There might have been a meeting. Generally it would have been over the phone.---I think so.

10 Did Mr Azzi influence you in the appointment of Spiro Stavis in December 2014?---I think the answer to that question is yes, but to the extent, I couldn't clarify that. He made his views known, and as I said, he said to me, "Find him a job or it's your job."

But there, you have told us, were other occasions where he would rouse on you and you ignored him.---Well, I don't, I don't, I don't react too well to being bullied by people.

20 So what I'm trying to ascertain is, if you think it is correct that Mr Azzi had an influence on you appointing Spiro Stavis in December 2014, then how did it come to pass that that was so, when there were other occasions when he could rouse on you and you would ignore him?---Well, it depends on the, depends on the subject matter.

You're the person who went through this.---Yeah.

30 Can you tell us how Mr Azzi influenced you in your appointment of Mr Stavis in December 2014?---Pierre Azzi's a very irascible person. He'll, he'll, he just goes off, right. Now, if you, if you let that get to you, that's the worst thing you can do. I used to just humour him. Oh, yeah, sure, Pierre, sure, and then do exactly what I wanted to do. But you had to understand the composition of the council then and, and the role of that group of seven. I would confide in the Mayor, I'd talk to the Mayor about things on a daily basis, but I couldn't, I couldn't have 10 mayors, I couldn't accept instructions from Pierre Azzi or Michael Hawatt on a day-to-day basis, it just wouldn't work.

40 You haven't explained to us, Mr Montague, how it was or what it was that occurred whereby your appointment of Spiro Stavis in December 2014 was influenced by Mr Azzi.---I can only repeat what I said earlier. His presence on the interview panel and his clear preference to I thought, particularly early in the, early, in the early stages to appoint Spiro Stavis.

Are you saying that he intimidated you - - -?---No.

- - - into appointing Stavis?---No, I'm not. He wouldn't intimidate me.

Are you saying he pressured you into appointing Stavis?---He certainly made it clear that he, that he wanted Spiro on the staff, either as director or in some other capacity.

And that was a reason why you appointed Stavis.---No.

Is that what you're saying?---Not necessarily.

Why not? I'm trying to understand your evidence.---Well, okay, but it was a factor in, in the end because of other circumstances that, that occurred.

10 What was a factor in the end?---That, that they wanted him, and I said to you and to the Commission that I formed the panel, which is the first time that's ever happened, I did that so that the councillors, including our Mayor and including the councillors on that panel, one of whom was a non-Labor councillor, could have ownership of this appointment so that hopefully we get an appointment where they were more, with whom they were more comfortable.

20 Mr Montague, my suggestion to you is that you don't want to tell the Commission in what way Mr Azzi influenced you in appointing Spiro Stavis in December 2014. Is that the case?---No, that's not the case. I think with respect, Mr Buchanan, I've done my best to do that. These were, as I said, these things were changing on a daily basis. I formed the panel. If I was asked to do that again I'd say I wouldn't, that was probably a mistake on my part, but I honestly did it to try and get the councillors to have ownership of this process so that - - -

You could have ignored the panel.---Yes, of course I could, but my intention was to put a report up to council after the panel met and after the interviews had been conducted.

30 Are you saying that because Azzi and Hawatt were members of the panel you felt obliged to take, to give weight to their pressure on you to appoint Stavis?---No, I'm not saying that.

What are you saying, then? What's the relevance of saying I could have ignored the panel but it was the panel, the appointment of the panel that did it. Why - - -?---I don't know what you mean by did it - - -

40 Well, you're the one who is raising it all the time and I'm just trying to understand - - -?---What, what I'm trying to explain, Mr Buchanan, is the panel was formed for the express purpose of interviewing would-be, would-be directors of city planning.

Yes.---And the interviews were conducted as you well know, and it came down to three people and there were three people, if you like, on the shortlist. Now, Pierre Azzi and Michael Hawatt made it very clear in deeds and words that they, they were inclined to support Spiro Stavis. I knew that but that didn't mean to say that he wasn't my preferred – I'll get to that later, no doubt – but he wasn't my preferred, my first preferred candidate. Now, that's all happening, it's all happening in the ether and I was trying to work

it all out and try to get an outcome that was best for the council, for the community and for the organisation.

Are you saying that because Azzi and Hawatt, as members of the panel, indicated a preference for Stavis, that influenced you in choosing Stavis rather than another candidate?---No. No, that's - - -

10 What are you telling us, then?---Well, the circumstances leading to Mr Stavis's final appointment revolved around other issues, which I thought we would have gotten to.

We're talking about December 2014.---Yeah, yeah. I know what you're talking about, and, and he got, he started in the job on March '15.

We're not talking about that at this stage. I'm simply asking you about your evidence that Azzi had an influence on how you did your job as general manager in your appointment of Stavis as DCP in December, 2014?---Yes, I'll say yes.

20 What was that influence? How was it exerted?---Pressure, pressure of personality. His personality, the same as Michael.

And you succumbed to his personality in that instance?---No.

30 What are you telling us, then?---Well, I'm, I'm telling you that my, my preference was not, initially was not Spiro Stavis, okay? But, and we'll get to this no doubt, the way the interviews were conducted and the comments made by both Pierre Azzi and Michael Hawatt indicated to me, very, very clearly that my preferred candidate would not get the job, they would not support that, that appointment. Now, if you're characterising that as influencing how I did things, yes. The answer is yes.

So, because they indicated a preference for Stavis and that they didn't want your other preferred candidates to get the job, you appointed Stavis, is that what you're telling us?---I also terminated the offer. I also withdraw the offer of employment.

Yes, we know that. That's another matter.---Yeah.

40 We're talking about the issuance of the offer on 8 December.---No, I've already said that that decision, to appoint him finally, after all of the, all of the, the ruckus over the appointment and the withdrawal of the appointment was, was generated by other factors.

No, no, no, no. I'm talking about 8 December, the offer of employment. You didn't get any references until after.---There were references included in, in his application, as there were with the other applicants.

There was no ruckus, was there, until you worked out that you shouldn't have issued an offer of employment to Stavis because of referees, references that were supplied to you by Judith Carpenter?---I reconsidered and decided that the decision to offer appointment to Mr Stavis was not the best decisions.

And it's the offer of, initially, that as it occurred – would you like a break?
---No, I'm fine, thanks. I'm fine.

10 Please just, at any time, just say so.---No, I'm fine.

Your appointment itself, on 8 December, 2014, was a decision that you made that, I think you fairly and squarely acknowledge, was made at least in part because of influence that Azzi and Hawatt exercised over you?---I can't say, yes, I can't say no to that. I, I'm not, and it's not influence over me, it was just, it was just the atmosphere at the time. It was pretty obviously, it was palpable that they wanted to appoint Spiro Stavis, right?

20 THE COMMISSIONER: And was that from the time of the interview when you were sitting there in the interview panel and - - -?---No, interestingly, after the panel and, and at the end of the panel they said very little. There were discussions, I can't recall exactly, and how long it all took but, you know, the people who were there, including our Mayor, made some comments and I was left really up in the air. I didn't know what they wanted, so in the days and weeks, I think, following that, I had to make a decision and I made that decision and I made that decision without reference to them or to, I think I might have kept - - -

30 No, I'm not interested in that at the moment. You just gave evidence that it was palpable that they wanted Mr Stavis.---Yes, yes.

And I'm just, and that was to the – it was palpable up until 8 December, when you made that offer to Mr Stavis?---It continued beyond that.

Okay, but palpable before then?---Yes.

40 And you're saying, I was interested, this palpable influence or interest that they had in Mr Stavis, did you sense it from the time of the interview or - - -?
?---Yes.

From the time of the interview?---Yes.

And it continued until you - - -?---Well, actually, correct myself, Commissioner. It started before the interviews, once they were aware that he had applied.

Mr Stavis had applied.---Now, how they knew that, I don't know, but they, they knew he'd applied for the role and it started then, really.

MR BUCHANAN: And can you just tell us what your first experience was of either of them or both of them having a contact with you about Mr Stavis?---They weren't all that, they weren't all that strident in support of him because - - -

No, no. When, sorry.---Oh, when. Around about the time that the applications were invited and interest gained momentum.

10 And what's your recollection of the first contact that you had from either of them or both of them about Mr Stavis?---I don't, look, I don't think they were in his court if you, if I can put it that way.

Yes, but even their first reference to his name. That's what I'm after.---Oh, look, Pierre I remember saying on one or two occasions, you know, "He looks like a good candidate." I don't know how he, how he deduced that because we hadn't had the interviews and I'd never met, I don't believe I'd ever met Spiro at that stage.

20 And Mr Hawatt?---Ditto. In fact, he was even less interested.

In?---In the whole process of appointment at that point.

Would it be fair to say he was less interested in the process but he was interested in the appointment?---I'm sure he was interested in the appointment but he didn't articulate that to me, not in, not in a positive, not in - - -

I understand.---You know what I mean?
30

Bechara Khouri, you'd known him for a long time.---Yes.

Can you tell us for how long, please, as at 2014?---10 years.

And what were the circumstances in which you first came to know Mr Khouri?---Through political circles. He was a stalwart of the ALP and I ran into him at functions and things early in the piece, and was introduced to him I think at a fundraiser once. That's the best I can recall but I had known him for a long time, yes.
40

And you became friends with him?---Yes.

And as at 2014 you were then friends with Mr Khouri?---Yes.

And you and he spoke with each other and saw each other regularly?---We spoke to each other on a fairly regular basis. We saw each other from time to time usually at a coffee shop in Concord where I, on the way home. I didn't socialise with him other than that. You know, there was no family

interaction or anything of that nature. It was just coffee and the occasional drink that I had with him. He got to know, I suppose it's fair to say that as time went by he got closer to the council, not only to me but to others in the administration. He didn't come into the building all that much. He normally left his communication to texts or phone calls or face-to-face contact outside of the council.

And what was the nature of your contact and dealings with him?---As I said, social mainly.

10

But what would you talk about?---Politics. State of the nation. What's happening.

Local government politics?---Yes. He was a car nut.

20

Canterbury Council politics?---No, not, not in depth. He knew more about that than I did, being a Labor member. We talked about motor cars. He was a car freak like I am, so there was common ground there. He had a lot of friends in the area, people I didn't know, who would meet him at this same coffee shop. He, he was just that sort of, he was a single man, his marriage had collapsed, so he had plenty of time on his hands.

And he knew more about Canterbury Council politics than you did?---I think if you asked him that question he'd say yes. I don't, I don't think that's right though.

30

Doesn't that mean that you and he had a very strong common interest namely, the politics at Canterbury Council?---Well, I certainly had an interest in politics because my job was highly political, of course. I think for, for Bechara he was a member of the Labor Party and he took an active interest in Labor matters, of course.

Did you and he discuss this matter of common interest politics at Canterbury Council?---No, no. I mean - - -

Why not?---Because I was, when I left the office at night I wanted to leave it behind me. The last thing I wanted to do was talk - - -

40

What about during the day when you took a call from Mr Khouri or when you rang him?---If it was a specific issue, yes, but it didn't go to the, to the heart of the political composition of the council. It might have been about a particular matter he'd ask me how is it going, you know. I mean we know this and like I said earlier I think at the start of this, I took the view, rightly or wrongly, that part of my job was to assist people in our community, whether they're developers or otherwise, to do business with the council in some way or other and I don't retreat from that.

And did you see Mr Khouri at Mr Azzi's house?---Yes.

To what extent?---Oh, he'd be there now and again, not every time, a number of times I was there. If he was at a loose end he'd just call into Pierre's on the way home.

He and Mr Azzi shared political affiliation?---Yes, they were both in the Labor Party.

10 You spent time with Mr Khouri at Mr Azzi's house?---Yes. Once, or on several times.

And indeed there was a regular Friday night event at Mr Azzi's house, was there not?---No, that only happened after the amalgamations. After the amalgamations and I suppose it was a case of everyone was concerned about where we go from here. Would it be a forced amalgamation or – it was in the end of course – and what could we do to get the new council, the amalgamated council to work properly.

20 I just want to ask a few more questions about that. You went to Mr Azzi's house before amalgamation?---Yes.

You saw Mr Khouri at Mr Azzi's house before amalgamation?---Yes, yes.

There were regular Friday night gatherings at Mr Azzi's house?---Not till later. Not in those, not in those early 2013/2012/2014. It happened later.

What about 2015/2016?---2016.

30 Before amalgamation?---2016 definitely.

Before?---Yeah, definitely, because we were forecasting the outcome of the merger process and trying to work out how it would work because initially Canterbury was offering a voluntary amalgamation with Bankstown. As it turned out it was forced.

Upon amalgamation you lost your position as general manager?---I retired.

But you were no longer general manager?---That's right.

40 So the only times that you would have, for example, contacted Mr Stavis at a time when you were general manager and at Mr Azzi's house would have been before amalgamation?---Yes.

Did you not have any telephone contact with Mr Stavis in 2015/2016 before amalgamation about specific development proposals?---I could have. I can't recall. I could have. Maybe the extraction reports will show that. I don't know. I can't remember.

I want to suggest to you that you attended, regularly attended Mr Azzi's house on Friday nights before amalgamation?---I don't, I don't deny that. It's, I don't know how many times but it did happen, yes.

And that was not just on your account, there were other guests there as well?---Of course. All sorts of luminaries.

10 So it was a regular event on a Friday night at Mr Azzi's house before amalgamation to have these social events which from time to time you attended?---Yes.

And Mr Khouri attended?---Yes.

And various developers attended?---No. There was one occasion I recall where – and don't forget these were people invited by Pierre, he was the host.

I'm not after the reason why they were there.---Well, yeah, there were - - -

20 I'm simply after - - -?---I remember - - -

- - - did you when you were at Mr Azzi's house see there Mr Demian?
---Yes.

Did you see him there more than once?---Yes.

Did you see there Marwan or Ziad Chanine?---Marwan I think was there once. At least once.

30 And were there occasions when you were at Mr Azzi's house and there were conversations involving you and Mr Demian?---There were no conversations involving – do you mean talking to him?

Yes.---He was at the other end of the table. Maybe we exchanged pleasantries when I got there or he got there but that was the extent of it.

40 Didn't you have conversations with people like Mr Demian, developers, from time to time at Mr Azzi's house on Friday nights and make inquiries of Mr Stavis by telephone as to aspects of the developments you were being asked about by these developers?---Yes.

And you did that because you were being asked about these developments by those developers?---Yes, and I took the view well, now is as good a time as any to ask him rather than wait till Monday or whatever.

No, isn't the answer that you wanted to give to the developer concerned the answer to the inquiry that was being made of you?---Well, it was either then or later. I mean as I've said earlier, I was keen to provide assistance to

people if they had specific questions that I felt were relevant to the council's operations. It didn't mean I favoured their application.

Commissioner, would this be an appropriate time to take a short break?

THE COMMISSIONER: We'll take a five-minute break.---Thank you.

We will resume in five minutes.

10

SHORT ADJOURNMENT

[3.16pm]

MR BUCHANAN: Mr Montague, when you gave evidence – a little bit before we took that break – that you didn't have, you didn't go to Mr Azzi's house for Friday night gatherings until after amalgamation, are you referring to the occasion when the amalgamation of Bankstown and Canterbury Council was proclaimed on 12 May, 2016? Or are you referring to something else?---No, I'm, I'm, what I'm saying is that the number of visitations to Councillor Azzi's home increased after the announcement, the proclamation on 12 May, '16. Prior to that, from what I can recall, the visits were nowhere near frequent.

20 But how frequent were they before amalgamation actually occurred?---It's hard, it's hard to recollect now. Just trying to cast my mind back. Well, certainly those, those meetings didn't take place in the latter part of 2014 and the earlier part of 2015 because of the circumstances surrounding the war, if you like, with me.

30 Yes.---Relations were strained to say the least.

So once the war was over - - -?---Then the number of visitations increased but I don't know how many or exactly.

Now, I was asking you about Mr Khouri. You spent some time with him socially at lunches at Il Buco.---Yes.

40 And was it usually politics in the local government area and perhaps in the state arena as well? It was a matter of discussion with you and your guests at those lunches?---No, no, it was just light-hearted banter. And when you say guests, there were numerous people there from council, not only myself and others but they were in that council circle.

How frequently did Mr Khouri attend those lunches?---Reasonably, not every one but reasonably regularly.

Now, as far as you were aware, how did Mr Khouri earn a living? 2014-16.---Yeah, Mr Khouri, as I understand it, had many irons in the fire, so to

10 speak. I understand that he had interests overseas. At one stage he operated a, what I'll call a café at the Top Ryde Shopping Centre. I think the name of it was Ali Baba.

10 Was that in 2014-16?---Not sure. He did, he did get out of that business and I don't, I can't remember when. I learnt that in passing. He also was involved in export and import of materials, particularly a deal that I think he was trying to arrange in relation to some fuel product. I can't remember the exact scientific name now. And he also later, I think, and I don't know precisely when or who, acted as a consultant to certain people in the community – not only in Canterbury but elsewhere, Strathfield and Bankstown – for which he was paid a retainer, as I understand it. But I, I, I didn't know the ins and outs of his business dealings.

20 In the period 2014-16, you didn't know?---I knew that he had, that he'd been, that he was receiving a retainer from individuals. I don't know who those individuals were. And this biodiesel thing, that's what it was, a biodiesel project. I don't know whether that was successful or not. He was also involved with exports from China of aluminium products.

20 Do you know whether Mr Khouri had himself interests in property development? As in pecuniary interests in property development.---No, I didn't know that until I heard only recently that he may have had an interest in one of those sites on Canterbury Road, that is the Doorsmart site.

212-222 Canterbury Road?---Yes. Yes. But I don't know to what extent he was involved in that, what sort of interest he had.

30 What I'm after is not your knowledge now. At the moment I'm asking, what knowledge did you have at the time, in 2014-16, of Mr Khouri having an interest in property development?---I think at that point I would have had some understanding of his involvement with that site in Canterbury Road but nothing else that I'm aware of, certainly not in the city of Canterbury.

40 Can I just give you the opportunity of responding to this? You're not being frank with the Commission, are you, in the answers that you've just given me about what Mr Khouri did for a living to your knowledge in '14-16? ---Yes, I am. Yes, I am. I, as I said, the only things I knew he was involved in was providing consultancy services to certain people dealing in export/import. They're, they're his, and that café thing that I think he sold out of.

Well, consultancy services doesn't tell anyone anything. What consultancy services did you understand he provided in 2014-16?---Well, he was - - -

To what sort of people?---Well, developers.

Right. So previously you said people - - -?---Well - - -

- - - now it's developers.---Well - - -

Is that right?---Yeah.

And what sort of services to developers?---Well, I, I, I honestly don't know what sort of services he provided or how much he was paid.

10 You had no idea what sort of services he provided - - -?---I think - - -

- - - to developers in 2014-16?---I think he saw himself as the go-to man if you wanted to get advice about particular applications in councils, not just Canterbury, but elsewhere.

And as far as you could see was that insight he had into his own business justified, was he the go-to man for developers in relation to councils?
---He seemed to think he was. I don't, I'm - - -

20 No, no, no, no. Was that justified, is what I'm asking. In your opinion in 2014-16, was he the go-to man?---Well, for some people he clearly was, some developers he clearly was.

In 2014-16 he clearly was?---I think so, I think it's fair comment.

Who were those people?---Well, the only, the only ones that spring to mind are the ones that have been traversed here already, Charlie Demian - - -

Yes?--- - - - and the Chanine brothers. Any others I don't know.

30 Now, why didn't you tell us that when I first asked you the question?
---Well, it's, it's, I'm not trying to be evasive, Mr Buchanan, it's, it's come out, I don't mind admitting that, but I, I didn't know that's what you were wanting me to say or that's what you were driving at. You asked about his source of income.

How many days have you been sitting in this public inquiry?---Oh, quite a few.

40 You of course are well aware of the article which was written by Kate McClymont and published in the Sydney Morning Herald on 12 January, 2015, because it was about the Il Buco lunches.---Yes, I could hardly forget it.

And if the witness could be shown Exhibit 59, page 3, we can bring it up on the screen is the easiest way to do it. I'm happy to show the front page but you probably don't want to look at it. Page 3. And you see that there is reference by Ms McClymont in the middle page, "One of Mr Montague's occasional guests at Il Buco is his friend, Bechara Khouri, once described in

State Parliament as a 'Labor Party fixer.'" And I'll just go – forget the next two paragraphs.---Yes.

I just want to take you down to what's attributed to you, the penultimate paragraph on page 3. "Mr Montague said he had, 'No idea what Bechara does for a living.' When pressed, Mr Montague conceded, 'I know he knows developers and architects,' and that Mr Khouri acted as a lobbyist." ---Yep.

10 And just to show we haven't ignored it, Ms McClymont went on to say, "Mr Montague said his friend occasionally rang up to see where development applications were up to but he, 'Has never asked me to do anything.'" ---Yeah.

So in page 3 of Exhibit 59 - - -?---What date was this article, I'm sorry, Mr Buchanan?

THE COMMISSIONER: I think it's 12 January, 2015.

20 MR BUCHANAN: That's correct.

THE WITNESS: Ah, yes, yes.

MR BUCHANAN: Mr Montague, why didn't you tell us when I asked you that Mr Khouri acted as a lobbyist?---Well, he never called himself a lobbyist, that's, that's, and in fact if you say that - - -

I wasn't asking you what he described himself as.---Okay, well - - -

30 I was asking you your understanding of what he did for a living in 2014-16. ---And I said that he, that he had connections with developers and he would seek advice in relation to particular matters before a number of councils, not just Canterbury. Now, if that's lobbyist then that's what he is.

You see, there's something to your mind, isn't there, a little bit shameful about the fact that you had a relationship, a friendship with Mr Khouri, who at the time was a lobbyist for developers. That would explain why it's taken this long to get all of this out of you.---No, I don't agree. I, I've tried to answer the questions as truthfully as possible and I'll continue to do that.

40

Mr Khouri communicated with you, did he, in relation to a Chanine project?---Well, there were, there were two Chanine projects. One was the one in South Parade, Campsie, which we referred to earlier and the other one of course is the, no, hang on, that's not theirs. Is it, is it the Doorsmart? I don't know.

Yes, you're right.---Okay.

No, you're quiet right.---Well, the Doorsmart one.

Doorsmart would have been the name that the Chanines used in their description, their shorthand term that they would have used in discussions with you about 212-222 Canterbury Road and 4 Close Street.---Yes, possibly but I only, I wasn't involved in that, in that application at all, except one meeting where we were discussing setbacks at the rear onto a council property in Close Street.

10 How many communications did Mr Khouri have with you about the Doorsmart project?---I can't recall. Maybe a couple, that's all. But it'd be the same type of thing, where's it up to.

What was the kind of thing?---Well, where's it up to, you know, what's the hold-up and I couldn't answer that. I knew there were issues about it, with that site. I can't remember now precisely what those issues were but setbacks were certainly one of them.

20 And so you would say, would you, that there were a couple of contacts by Mr Khouri with you in relation to that project?---Yes.

What was the nature of those contacts? That is to say, were they phone conversations, SMSs, face-to-face meetings?---Probably phone, probably phone.

30 Did you see Mr Khouri in the presence of either Ziad or Marwan Chanine? ---Well, I certainly saw him at Pierre Azzi's place that night. I think it was Marwan, I can't be certain of that. Other meetings, there may have been a meeting in, in council chambers, which he attended, although Mr Khouri seldom came into the council chambers. So, that's possible but I don't recall precisely when.

So, could there have been other contacts, that's to say phone conversations, SMSs?---Well, it's possible, yes. But it would have been along the same lines and I couldn't shed any light on it. I, I mean, I had no particular interest in that one other than the impact on the council property at the rear in Close Street.

40 Did you have any complaint made to you about the need for a quick decision on the DAs at 212-222?---Everyone wants a quick decision, that's not uncommon or - - -

Yes, but did you have a contact from the Chanines, and I'll extend it now to Mr Khouri, from the Chanines and/or Mr Khouri about trying to move things along more quickly?---That's possible, yes. That's possible. I can't recall when or, or whether I was able to do anything. In nine times out of 10, all I'd do is, is refer it, or ask the planning staff to give me an update, that's it.

You indicated that everyone, essentially, has those sorts of complaints if they're a developer.---Well, not everyone but some people do, yes.

Because of holding costs and interest payments and the like?---Yeah, yes.

10 Inevitably, at the least. Can I ask you then about whether Mr Khouri had any communication with you in relation to a Charbel Demian project, Charlie Demian?---Well, the only two properties that affected Mr Demian were the Harrison site, not the other two on either side of it, and 998 Canterbury Road, corner of Punchbowl Road.

Well, the one on the western side was also Mr Demian's. 570.---Yes, yes. That was happening towards the end of the council's life and I didn't get involved in it particularly because I knew we were going out, we were on the way out. The main one was the Harrison's site itself.

20 You didn't get involved in the 570 Canterbury Road?---I did, but only in a very sort of peripheral sense.

So how many contacts did you have with Mr Demian about the Harrison's project?---Oh, numerous.

And what was the nature of those contacts?---Same thing. He, he's very persistent. "How are we going? Why is it being held up?" You know, that sort of comment.

30 Did you know why he was asking?---Well, because he wanted to see it determined one way or the other.

Why did he, as you understood it, want to see it determined one way or the other?---Because I guess he, it was imposing a financial strain on him.

On whom?---On him. On, on, on Demian.

Mr Khouri?---No, Demian.

Demian.---Oh, was Mr Khouri pressing me about that?

40 Yes.---He rang me a couple of times about it, and at that stage he may have been retained by Charlie Demian. I don't know.

You don't know?---Well, he had a retainer arrangement with him but I think that relationship soured at some stage. I don't know when.

So can I just be clear about this? Mr Khouri made representations to you from time to time?---Yes.

Be it face-to-face, over the phone, SMSs, social occasions, that you understood to be being made by him on behalf of Mr Demian?---Yes.

And what was your understanding as to why he was making them on behalf of Mr Demian?---Because he was probably being paid to do so.

10 How did you deal with those representations that were made by Mr Khouri on behalf of Mr Demian?---All I would ever do, all I would ever do is ask the planning staff to give me an update or to contact him directly or the applicant, if you like, or his advisers – you know, his planner, his architect, those sorts of things – just to find out where it was up to.

Was there no other contact?---No, not that I can recall.

20 By which I mean was there no contact about any other aspect apart from timing?---Not really. Well, Charlie Demian, when he came into the office on a couple of occasions, would put his point of view about the density on the site, and it was clear he wanted an extra two floors. That was never approved and I don't think it has been now.

And you're saying that Mr Khouri raised that with you?---No, no.

Why are you telling us that, then?---Well, I'm just saying that's Charlie. Charlie would be asking how the application was going.

30 Yes. Just for the moment I'm asking about the contacts that you received from Mr Khouri about Mr Demian's project at Harrison's.---Look, he could have mentioned that but I, I, I would have just taken, it would, it wouldn't have gone over my head but I wouldn't have put a great deal of store in it.

You said that you received representations seeking to get a decision or to expedite a decision one way or the other.---Yeah.

That's not really right, is it? No one wanted a decision refusing their DA. ---Well, I guess if you're a developer, you wouldn't. But, I mean, in the end it's in the hands of the, the planning staff and the council.

What the developers' contacts or whether - - -?---No, whether they - - -

40 - - - made directly or through a third party were was for a favourable decision as soon as possible, wasn't it?---It could, it could be but I, I didn't, I didn't look at it like that. I mean, I've said repeatedly that any application has to go through a process and it has to go through a process to ensure that it complies with the codes and the laws at that time.

But you had these pressures on you, the population pressures, the State Government policy pressures.---Yes, yes.

The strategic planning pressures.---Yes.

That inclined you to be pro-development and to want your council to be pro-development. Is that fair to say?---No, I would expect those, those considerations to be taken into account when the application is assessed. So, I mean - - -

10 You were pro-development, weren't you?---Yeah, I, I was for the reasons I mentioned earlier, that Canterbury - - -

Thank you. That's what I'm trying to establish. You were pro-development.---Yes.

Right. So you - - -?---Quality development, I, I must add.

Yes, yes. Property development.---Quality development.

I'm sorry. Quality. Thank you.---Quality development.

20 But it served your interests, didn't it, to have favourable decisions made in respect of these properties – let's take 212-222 Canterbury Road and 548 Canterbury Road as examples – as soon as possible.---No.

Why not?---There was nothing in it for me.

But you were pro-development.---But it may have taken six months, it may have taken 12 months, it might have taken three years, some of those sites on Canterbury Road have been fallow for five years.

30 But that wasn't the approach you took, was it, with Mr Stavis, you weren't telling him, oh, look, it doesn't matter whether it takes this long or this long or this long - - -?---But I wasn't - - -

- - - you were telling him you want a decision made yesterday.---Yeah, but I – no, I wasn't, and I never, and I wasn't the only one applying that sort of pressure, that was coming from the council.

40 Hang on a sec. You weren't applying pressure but you weren't the only one applying pressure?---Well, pressure, look, the council wanted something to happen, the council elected in 2012. There were concerns about that the development occurring throughout the area, there had been a plan developed for the Canterbury Town Centre which had been hatched in the earlier council, the previous council, which was being progressed and Canterbury was starting to move forward. I thought that was a good idea when you considered it against the government's requirements as far as housing stock is concerned, particularly for emergency workers, the thing is directly or diagonally opposite Canterbury Hospital.

And it contributed to things moving forward in the Canterbury area if approvals were given to these major developments sooner rather than later, didn't it?---Yeah, of course it would, but that doesn't impute or imply that there was something sinister in the way those things were dealt with because they haven't been approved now.

No, but it provides a motive, doesn't it?---Well, you could look at it like that, but you could look at it in many different ways.

10 You saw Mr Khouri in the presence of Charlie Demian numbers of times. Would that be fair to say?---Several times, yeah.

You would have been with them together at Mr Azzi's house talking about Mr Demian's developments?---We were together at Mr Azzi's house but we weren't talking just about his, that might have come up in the course of conversation, most of it was just light-hearted banter about politics, particularly given the closeness of amalgamations.

20 But Mr Demian wasn't a person to let slide by an opportunity to give you an insight into his thinking about how council was - - -?---No, course not, course not.

- - - dealing with his applications, was he?---No, of course not, but you didn't, you take it with a, you could take it with a grain of salt, that was Charlie.

Did you take it with a grain of salt - - -?---Most of - - -

30 - - - or did you try to accommodate Mr Demian - - -?---No, not if it - - -

- - - when he took these things up with you?---Not if it meant that there were, there were going to be approvals that did not comply with the, with the codes and which the planning division who are responsible for processing these things weren't comfortable with the application and didn't make a favourable recommendation. I - - -

I'm sorry, go on.---I never asked Spiro Stavis or anybody else to amend a recommendation in favour of a developer.

40 Did you however have finer grain discussions with Mr Demian, did he for example raise particular issues that were being raised with him or that he saw as obstacles to an expeditious approval of any of his proposals?

MR ANDRONOS: Objection. For any answer to be of any assistance to the Commission my friend has to put that in context, either by reference to an issue, by reference to a period, by reference to a project. That level of generality, it's unfair for the witness to try to search his memory for the entirety of the period that we're talking about in this inquiry, to try to

answer that, without being directed towards something a little bit more specific.

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

Mr Demian raised with you, didn't he, at for example Mr Azzi's house from time to time when Mr Khouri was also there, issues that he had at that particular time with one development or another, not the question of approval or otherwise, but issues that were being raised with him - - -?
10 ---Possibly, yes.

- - - by council as he saw it?---Possibly.

And you took instructions by phone from Mr Stavis as you stood there or as you were there at Mr Azzi's house in order to be able to respond to Mr Demian, didn't you?---To the best of my knowledge, that occurred on one occasion when it was Pierre Azzi who said, "Let's ring him now," and got him on the phone, got Spiro on the phone.

20 In relation to one of Mr Demian's concerns.---Yeah, I think so.

Did Mr Khouri talk to you about 50 Canterbury Road?---Now, is that the carpet place, is it?

Yes.---I'd say in the, in, in the same vein as he did about the Harrison site but it was a different application and there were a lot of different problems associated with the carpet factory site by comparison with Harrison's.

Well, adding two storeys to 548, the Harrison site, and adding two storeys to
30 570 posed difficulties in their own right.---Of course.

Didn't they?---Yes, of course.

And they were the particular problems, not the approvals for the original developments in either case?---No, that's right. They were done and dusted. The original developments were up to 18 metres, I think, on the Harrison site. I don't know about the carpet factory. Now, to get the extra two, there had to be some justification for it and, as I understand it – and I repeat, I am
40 he lodged a 4.6 application to get extra height in return for a laneway at the rear of the site, running parallel to Canterbury Road. That's what it was about.

And Mr Khouri, did he take up with you, any concerns in relation to 570- - -?
?---Not really.

Adding the two storeys to 570 Canterbury Road?---Oh, he, he mentioned it that he wanted it, and I said look, if you can get the extra height good luck

to him, but he's going to have to go through the 4.6 process and he's going to have to get the council onside, if, if there's a recommendation in favour of it.

You remember the planning proposal for 998 Punchbowl Road?---Yes.

10 Did Mr Khouri take up with you, or have any contact with you in relation to that planning proposal?---Yes, the same sort of thing, though. Mr Demian wanted to go higher, particularly on the corner as a corner element because it was the entry point into the city of Canterbury.

Well, that's the justification.---Well, well that was his justification.

He wanted because he would increase his lot yield, didn't he?---Well, look, it's all about yield in the end, isn't it?

20 Thank you, yes.---So, but the issue there was setbacks, particularly off Punchbowl Road, and I remember vividly having a piece of paper, which now is frowned on, a piece of paper where people squiggled things on it and said, do that, right?

Yes, but I'm asking you about Mr Khouri and his contacts with you in relation to that planning proposal.---Didn't have, didn't have a lot of contact with me at all about Canterbury Road.

998 Punchbowl?---988, no, didn't. Not that I recall.

30 Did Mr Khouri have contact with you in relation to any other developer's project in the Canterbury area?---Yes.

Can I ask you about, oh, sorry, go on.---Yes, the only other one that I can recall and I don't know what its state was or is, I don't know, I've got no idea, was one in Brighton Avenue, which I think was a Dyldam development.

40 Thank you. And so would it seem to you, sorry, it must have seemed to you at the time that indeed Mr Khouri was acting as a lobbyist with Canterbury Council in respect of three different developers for major projects?---Well, it certainly seems that way. I prefer to call him an emissary for those applicants. The word lobbyist can be misconstrued. But be that as it may, that seemed to be the business he was in, yes, but not only in Canterbury, in other areas as well.

Certainly. Did you see there being the potential for any conflict of interest between your friendship with Mr Khouri, on the one hand, and your position as general manager of the consent authority and Mr Khouri's representation of these developers with interests in the area that they were pursuing with council on the other hand?---It didn't occur to me at the time. Thinking

about it now, I guess it could be argued that it was a conflict but I, I never looked at it like that. And if you take that to its logical extension, that would mean that anyone that came to my office or contacted me about a particular matter, whether it be a planning matter or other matter, there'd be a conflict of interest. I don't know that I could do my job in those circumstances. But I didn't let that influence me and, and I don't think Bechara Khouri expected it to. He just wanted it, pass it on, get, and to be able to go back to his client, whoever it was, and say, look, I've spoken to the GM. It's held up for this reason or that reason. In the end, it's up to the
10 planning staff to prepare a report for council's consideration. I had nothing to do with the preparation of those reports.

But the difference with Mr Khouri was, he was your long-standing friend with whom you socialised.---Yes.

And that was what created the potential for a conflict of interest, didn't it?
---It created the potential for a conflict of interest I suppose.

And did that conflict, was that conflict ever realised in your experience?
20 ---I don't think so.

Did you take any measures or steps to avoid the conflict of interest realising?---Not consciously, no.

What was your understanding of Mr Khouri's contacts with Michael Hawatt in 2014-16?---I think, I think Mr Khouri had regular contact with Mr Hawatt, I do.

And the same with Mr Azzi?---Yes.
30

And did you see Mr Khouri with Mr Azzi at Mr Azzi's house?---Yes.

Did you understand that Mr Khouri had contacts also with Bankstown Council in 2014-16?---I don't know. I know there was a site, the old golf course I think, that was a concern and I think he may have been making representations in relation to that site. Others in Bankstown I've got no idea.

Commissioner, I note the time.
40

THE COMMISSIONER: Are you about to move on to something?

MR BUCHANAN: Yes, I am.

THE COMMISSIONER: All right. We'll adjourn for the day and resume at 9.30 tomorrow morning.

THE WITNESS STOOD DOWN

[3.56pm]

AT 3.56PM THE MATTER WAS ADJOURNED ACCORDINGLY

[3.56pm]