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INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC
COMMISSIONER

PUBLIC HEARING

OPERATION DASHA

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 10 APRIL, 2019

AT 9.30AM

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

THE COMMISSIONER: Mr Drewett.

MR DREWETT: Commissioner, I gave an undertaking a couple of days ago that certain documents would be passed on to the Commission. Without wanting to go into the detail of what those documents are, I understand that those documents – as we understand them to be the documents that were sought – have been forwarded and I just wanted to make sure I satisfied my undertaking to this Commission, that my friend and the Commission is happy that I have met that undertaking.

10

THE COMMISSIONER: Mr Buchanan. I've - - -

MR BUCHANAN: We certainly have received the documents.

THE COMMISSIONER: - - - received two documents.

MR BUCHANAN: Yes, that's right and they were what we imagined was involved.

20 THE COMMISSIONER: All right. Mr Drewett, I'm not going to – we have received those two documents. I am not going to formally mark them for identification, they are on the Commission file. I think at the moment that satisfies, first, the undertaking that you gave to the Commission and also any other present requirements.

MR DREWETT: There's one further matter and I don't know, with respect, whether or not, Commissioner, you've been made aware of it. It's in relation to an email or a text received by my client this morning.

30 THE COMMISSIONER: About an appointment tomorrow?

MR DREWETT: I think at 8.30 this morning about the appointment tomorrow.

THE COMMISSIONER: I looked at that. My understanding was that there was going to be an attempt to change the appointment. Do we know if there's been any success with that?

40 MR DREWETT: My instructions are that an attempt has been made, contact has been made, not with the cardiologist himself but with his secretary or his receptionist. I am instructed that that is the only available appointment in the short term at the very least. What I was going to suggest is it's undesirable of course that it falls at 12.30, smack bang in the middle of what would be a hearing date. I was going to suggest that I'm grateful to my friend for perhaps putting the seed in my mind in relation to the matter that we start earlier tomorrow. In relation to travel times, I would submit it would be reasonable to expect that if my client were to leave here tomorrow at half past 11.00, he would be at Hurstville in time for his appointment at

12.30. Knowing how specialists sometimes run a little bit late and travel time back, it's a big ask, Commissioner, I understand, but I was wondering if the Commission would consider allowing my client not to have to return in the afternoon to give what in effect would be an hour or so's evidence and perhaps we can make up the time by starting early again on Friday as well. Travelling public transport into the city on two occasions in the circumstances of my client having undergone heart surgery some few days earlier, in my respectful submission, will be undesirable. I understand also of course, the expense and the time and everyone's time here - - -

10

THE COMMISSIONER: All right. Mr Drewett, I'll stop you there.

MR DREWETT: Yes, thank you.

THE COMMISSIONER: What I propose to do is, when I saw the email I also thought about starting earlier tomorrow. There is some logistical requirements that I've just got to make enquiries about. So what I propose to do is, can I adjourn consideration of that application until after morning tea so I can make those enquiries, but for everybody else what I had in mind, and I don't know whether this is possible, would be a 9 o'clock start tomorrow and possibly Friday. Can I just get an indication, does that presently pose any problems that anybody can't get over tomorrow and on Friday? All right. Look, we'll leave it at the moment. I'll revisit it after morning tea this morning.

20

MR DREWETT: Thank you, Commissioner.

MR BUCHANAN: If we could call Mr Hawatt, please.

30 THE COMMISSIONER: Yes, Mr Hawatt. Mr Hawatt, we'll administer the oath.

THE COMMISSIONER: Of course.

MR DREWETT: Commissioner, I would ask that a section 38 declaration be made in relation to Mr Hawatt. I have explained the effects of that and I have explained to Mr Hawatt that I'm sure that Your Honour will re-state what I have already explained to him about the section 38.

10

THE COMMISSIONER: Mr Hawatt, an order or a declaration under section 38 has been explained to you so I'm not going to go into great details about it, but there is one aspect of it which I have emphasised to every witness in the public inquiry who has sought a declaration under section 38, that there is a very important expectation. That is, if you give false or misleading evidence during this public inquiry, that may be an offence under the ICAC Act. It's like a form of perjury, it's a very serious offence. It brings with it a maximum penalty of imprisonment of up to five years. So, false or misleading evidence is not covered by the protection of a section 38 declaration.---That's fine.

20

Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by this witness during the course of the witness's evidence at this public inquiry are to be regarded as having been given or produced on objection and there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

30

PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY THIS WITNESS DURING THE COURSE OF THE WITNESS'S EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.

40

THE COMMISSIONER: Mr Buchanan.

MR BUCHANAN: Sir, your name is Michael Hawatt?---Correct.

You live at the address in Oatley that you lived at in 2014-16?---Yep, correct.

And your occupation I think you said the other day was finance broker?
---Finance broker, correct.

Mr Hawatt, I want to show you a document, please.---Excuse me, just a question. Can I take notes if I need or I'm not allowed?

Can I ask why you need to take notes?---Oh, just for memory if I need to answer a question or something just comes through while you're asking.

- 10 Well, if you think that you need to change an answer that you've given or add to an answer that you've given, it's probably best if you indicate as soon as you think that.---Okay. No problem.

Thank you.

THE COMMISSIONER: Yes. We might get, sometimes we get a bit lost in all the questions asked, so if - - -?---Correct. That's why I like to take notes sometimes.

- 20 If you've answered something, as Mr Buchanan said, and you suddenly think, look, I should have said this, or something like that, just raise it immediately.---Not a problem.

My concern with notes is sometimes people get distracted with actually taking notes, because the most important thing here, Mr Hawatt, is to listen to the question you're being asked and to truthfully answer that question, and usually the best way of doing that is just to concentrate on the person asking the questions.---That's fine. Thank you.

- 30 MR BUCHANAN: Mr Hawatt, could you have a look at this document, please, and a copy for the witness and a copy for the Commissioner. You can see that it is an extract from records held by the Australian Securities and Investments Commission in respect of you, and I'm just asking at the moment if you can that that's its general nature.---Yeah.

And can you see that at the top of the first page the data was extracted on 9 June, 2016?---Correct.

- 40 What I want to do is to ask you whether the details in this extract are true and correct as at that date, as far as you're concerned, but you'll need time to review it, so what I'm going to do is leave that document with you and I'm going to come back to it either this afternoon or tomorrow and ask you whether there are any queries you have in respect of it. Do you understand?
---Yes. I have no problems with that. I can see it here.

Thank you. So you hang onto that document for the moment, if you wouldn't mind. In the period 2014-2016, what were your sources of income?---A finance broker.

In the period 2014-2016, what were your sources of income?---I'm a finance broker.

MR DREWETT: Commissioner, I think that was the original answer he gave, as I understood it. I don't know if my friend heard and that's why he's asked the question.

MR BUCHANAN: No, I didn't.

10

MR DREWETT: I think he answered it in the same way in the original question.

MR BUCHANAN: Yes. My question though is, what were your sources of income, not what your occupation was, my question was - - -?---From my business which is a - - -

20

- - - what were the sources of your income?---Well, from some of the rental properties that I had as an income, some, some from the business, which is a finance brokerage business, some from, I do some small private funding.

Sorry, what?---Small private funding.

Small private - - -?---Private funding.

Funding.---I fund, yeah, certain private funds to certain people.

30

THE COMMISSIONER: What, like a loan, is it?---Yes, yeah. They're the main, they're the main sources.

MR BUCHANAN: And when you say a loan, do you mean you obtained loans from people or you - - -?---No, no, sometimes I give loans.

I see.---Do it, do it personally.

So these are repayments of loans or interest paid on loans?---Interest paid, yeah, yeah, investments.

40

And you would have also received an allowance by reason of being a councillor on Canterbury Council?---Oh, yeah, sorry, yeah, I forgot about that answer also.

Now, with the rental income, what did you do with it when you received it in 2014-2016?---It goes straight through my account.

Which account?---Oh, one of the bank accounts. I think it's, it's either Ozsecure bank account or my personal one. I just can't remember.

And your Ozsecure bank account was held with what financial institution?
---The National Australia Bank.

And your personal account was held with what institution?---Also the
National Australia Bank.

10 Now, your business as a finance broker, can you just explain to us the nature
of the income you receive? That is to say, what did you get the income for,
for doing what?---Well, arranging loans for people. I get trails and I get
commissions.

And what did you do with the income you receive from your finance
broking business?---It goes into my account and I pay the bills with it.

Which account?---Well, the Ozsecure account mainly.

And your business was conducted, was it – tell me if I’m wrong – under the
name Ozsecure, O-z-s-e-c-u-r-e, Home Loans Pty Ltd?---Correct.

20 Was there any other entity that you used to conduct your business?---Look,
I’ve had other companies as you can see in that and - - -

Sure.---But a lot of them I don’t have any dealings with them. I did some
joint venture businesses and dropped out.

And so the income from your business at Ozsecure Home Loans Pty Ltd
went into the Ozsecure account not your personal account?---Correct.

30 Now, the small private funding, interest and repayments of capital made in
respect of loans that you had provided, where did the income from that
source go to, where did you keep that income?---Well, it came, it came back
to either my, either personal account or from my business account. I mean,
they’re, they both cross each other and when I do my tax returns they’re, all
my accounts are included.

Your councillor allowance?---Also my councillor allowance. It’s, all the
income comes in together.

40 But did it go into a particular account?---Yeah, went to my personal
account.

Was your personal account in your name or the name of you and your
wife?---I’ve got some in my name. I also had Qantas Credit Union. I was
also, I forgot I had accounts with them as well. Some with my name, some
with my, well, actually the National Australia Bank both my wife and I.

That's the personal account?---Yeah.

THE COMMISSIONER: And the Qantas Credit Union account, account or accounts?---Oh, these are old accounts from way, way back. I used to work for Qantas as an analyst programmer.

But were you still using those?---I rarely use them. I rarely use them.

MR BUCHANAN: So thinking of the period 2014/16, you've identified three accounts or maybe four, a personal account that you had and an account you had with your wife. You've identified your Ozsecure Home Loans bank account. You've identified your Qantas Credit Union account. Were there any other accounts you had with financial institutions that you used for financial purposes?---I don't remember actually. It's, that's what I, that's the only ones I remember.

We could show you, please, volume 8 in Exhibit 52, pages 30 to 43, and I wonder if we could provide it to Mr Hawatt, please.---Thanks.

Sir, do you recognise this as being from pages 39 to 43, a copy of a disclosure of interests return that you provided to Canterbury City Council dated 7 August, 2015?---Yeah.

Was it correct at that time, 7 August, 2015, that is to say, was it complete? ---Whatever I've, whatever I put in is what's, what I remember. I just, otherwise I don't remember. It's been years ago. Like, it's been, 2015.

Just tuning to page 40 in volume 8, you can see there the second page of the disclosure has, under the heading Sources of Income, your business as a finance broker you've provided us today with information about other sources of income as well.---There's also Local Government of New South Wales. I forgot about that one. I was on the board for two years with them.

THE COMMISSIONER: That's the one you're talking about on page 41. ---Yeah, 41, yeah.

Item 3.---That's, that was also a source of income, yeah.

MR BUCHANAN: So just going back to my question, looking at page 40 in volume 8, under the heading Sources of Income, you disclosed your income from – I'm sorry. You identified Ozsecure Home Loans as a source of income but you didn't identify any other source when you completed this document. Was there any reason for that?---I mean, that's, I, I don't see any, what other income, that's all coming through the same source. I mean, it's how I identify the income. If I earn any income, it goes back through the Ozsecure Home Loans, whether it's coming from the rent or it's coming, it all comes into the one source.

Yes. You've explained where it goes but you haven't answered my questions as to why the additional sources of income that you've told us you

had in 2014-16, weren't disclosed in the document under the heading Sources of Income when you made it in August, 2015.---I'm not clear on what, I'm really not clear on what you're saying on this one.

Well, you've told us about four sources of income, including your allowance as a councillor, five when you take into account your sitting fees and the Local Government New South Wales Board, but there's only one in your disclosure of interest returned.---I've got the rent and I've got the broker fees.

10

THE COMMISSIONER: Where's the rent?---The rent is at Santley Crescent, where it's got the address. Property, the real, real estate.

That's the one under, "Section A, real property"?---That's correct.

That reveals you had an interest in the real property, it doesn't reveal that you're getting rental income from it, does it?---Well, that's, I put it in as already been identified, that's why it's in there.

20 MR BUCHANAN: So are you saying to us that the small private funding that you told us about - - -?---Sorry, can I, can I just clear that up?

Yes.---The income from the rent went straight to the mortgage so that was mortgage going straight - and that's why it's in there, yeah.

Thank you. But that didn't mean that it wasn't a source of income, did it? ---Well, it's only coming through from the rent and it's going to pay the mortgage. So when you put your tax returns - - -

30 How were you paying the mortgage? From a source of income, namely your rent.---Well, the rent pays for the mortgage, correct. It's, it's all included in the tax returns anyway.

THE COMMISSIONER: We're not talking about tax returns at the moment, we're talking about this document, this disclosure of interest document with the council.---Well, it, it's all in there, madam, sorry, Commissioner.

40 MR BUCHANAN: Well, did council have access to your tax returns?---No, well, they don't, they don't look at our tax returns, no.

The small private funding that you've told us about - - -?---It's part of Ozsecure.

Now, were there any other sources of income that you had in 2014-16 apart from the ones that you've told us about today?---Well, that's all I remember at the moment. That's, whatever's there is just clear in my memory. I don't remember, I, I can't recall besides what, what I have here in front of me.

Can I ask you to think about the tax returns that you filed in 2014-16 for Ozsecure Home Loans Pty Limited. Think about those tax returns.---Yep.

My question is, did you declare in the Ozsecure Home Loans Pty Limited tax returns in 2014-16 the small private funding income that you told us about today?---It's all included, yes, it's all in there.

10 In your tax returns for that company?---In my tax return as an income. It's all part of, all put together, all one income.

But did you declare in that tax return the small private funding income that you've told us about today?---It's all in there, part of the broker, finance brokering income.

Do you mean to say that you rolled it all up - - -?---Correct.

- - - and didn't identify in the tax return - - -?---Absolutely.

20 - - - the reasons why or the way in which Ozsecure Home Loans Pty Limited received that income?---It's, it's, I'm a one, one-man band. I don't have multiple businesses where I need to divide it all, it's just one income and it all comes in together.

In 2014-16 did you complete your own tax returns?---No, I've got an accountant does my - - -

30 And who was your accountant in 2014-16?---I can't remember. I've got two accountants, one, one was, what's his name, I think you've probably got the record, I can't remember their names. One was practising, God, what's his name?

Just tell us as much as you can remember now.---Look, I - - -

And when it comes back to you, you can come back to us.---I've used two, I've used two accountants during my whole period as a finance broker.

Yes.---So it's two accountants I've used in the past. That's all I can say.

40 Right.

THE COMMISSIONER: So are you still using those accountants or have you changed?---No, I use, I just use one, only use one.

And was that accountant that you're currently using one of the two accountants you were using - - -?---The one I'm currently using is one of the two, yes.

Mr Hawatt, you've started giving your evidence, what is going to help, if you can allow the question to be asked and then answer it.---That's fine.

When people talk over each other it creates great difficulty for our transcriber, and I know you're very anxious to get your answer onto the record, but it would really help things if you can just wait until the question is finished and then answering it. So your current accountant, was that accountant one of the two accountants that you used in the period '14-'16?
---Yes.

10

And what's that accountant's name?---His name is Amin, Amin, I just don't remember the name of their business. Can I look, can I check the name of the business?

Mr Buchanan?

MR BUCHANAN: Is Amin the surname, the family name?---No, the first name.

20 That's the given name of - - -?---Yeah.

- - - the accountant. What's the surname?---Oh, look, I just know that his business, can't remember the surname.

THE COMMISSIONER: I think Mr Hawatt was going to look at his telephone.

MR BUCHANAN: And we can let you do that at a later stage.---Okay.

30 And if you can come back to us, please, with that information.---Yeah, that's fine.

I'll ask you again.---Yeah.

THE COMMISSIONER: And also the information of the other accountant in '14-'16.

40 MR BUCHANAN: So do you remember that you told us about two accountants?---Yeah, there was two accountants. I'm just trying to remember the other one.

So we would like you to tell us, please, the details of the two accountants that you used in 2014-16. And my question now is, did the accountant with the given name of Amin prepare the tax returns of Ozsecure Home Loans Pty Limited in 2014-16?---I don't remember which one. I think he might have but I, I can't be 100 per cent.

And just checking on this, in 2014-16 did you file tax returns for Ozsecure Home Loans Pty Limited?---Yes.

That is to say - - -?---I'm up to date.

I'm sorry?---I'm up to date, yes.

And you were up to date at that time, in 2014-16?---Sometimes might be 12 months behind, but I'm up to date now.

10

So there were tax returns filed for the year ending June 2014 - - -?---There's - - -

- - - June 2015 and June 2016 for Ozsecure Home Loans Pty Limited. Is that right?---Correct.

And you think that Amin might have been the person who prepared those returns?---That's correct.

20 Thank you. Can I ask you now about your career as a councillor. When did you start as a councillor on Canterbury Council?---'95.

And you were a councillor continuously from 1995 until 2016. Is that right?---Correct.

Did you always have the same ward?---Yes.

And what was that ward?---West Ward.

30 And what suburbs were covered by West Ward?---Parts of Kingsgrove, Punchbowl, Roselands, Riverwood, Lakemba, sorry, no, parts, Wiley Park. I think that covers most of them.

Now, in the period 1995 to 2012 is it right that the council was essentially, had the Labor Party in the majority?---It's always been the majority.

And after the 2012 election that was still the case?---Yes.

40 But in 2012 Pierre Azzi was elected a councillor.---Maybe. I can't remember the date.

Well, if you can take it from us that it was September, 2012. Can I ask you, before Pierre Azzi became a councillor did you have any contact with him? ---Only once many years ago before that. He had some issues with his neighbour and he called the councillors trying to resolve those issues. That's the only time I, I met him and after that I never seen him until he got elected.

And after he was elected did you find that you were able to form a bond with him?---No, he hated me at first.

How long did that last for?---Until he found out I was a good guy.

And how long did, when did that occur?---Well, that occurred once he found out I was a good guy.

10 Yes, but when did that occur?---I don't remember. It could have been 12 months/two years down the track.

Thinking about it, what was the first occasion when you and Mr Azzi voted the same way on an issue at council?---I don't recall.

What was the issue that you and Mr Azzi voted the same way on?---I don't recall. I mean, we, we all, councillors have independent minds and sometimes we see eye to eye, sometimes we don't see eye to eye. I can't, I don't know their minds.

20 But you do know when Councillor Azzi voted with you, don't you?---It's on the record. There's the minutes.

You saw it happen, didn't you?---Of course you see it happen.

Do you remember thinking oh well, this is one for the books?---No. We always have different point of views on council. Sometimes we see eye to eye, sometimes we don't see eye to eye.

30 Was it your experience, though, that before the 2012 election the Labor councillors tended to vote together on issues?---Correct, until the conditions where they couldn't lobby, they couldn't, what do you call it?

Caucus?---Caucus, yeah.

And the evidence before the Commission shows that that happened in March 2013 when the code of conduct was changed to prevent caucusing on certainly development issues at council.---Correct. Yes.

40 Once that change was made was it straight away that you and Mr Azzi started voting together?---No, definitely not. It's only when there's a break-up between the Labor guys who, who didn't like the mayor who was, who was currently there. They couldn't see eye to eye with him and suddenly there was a split within, within the various councillors.

Was Mr Robson a Labor councillor?---Yes, he was.

So you know, don't you, that in the period 2014/16 you and Mr Azzi essentially controlled the numbers on council?---Oh look, that's incorrect. Its, it's up, it's up - - -

What's incorrect about that?---Because it's, it's up to, each councillor has their own individual mind. We don't control what they think and what they do. We can just put up an argument and it's up to them to support an argument. That's the way it is. It's like being here.

10 What I'm asking you about, though, is what happened in practice. Whilst it might have been the case that individual councillors could in theory vote whichever way they wanted, in practice you know what happened in the period 2014-16 was that you and Mr Azzi, particularly on planning and development issues, controlled the numbers on council, didn't you?
---That's, that's incorrect.

20 Did you have discussions with Mr Azzi about how you and he should vote or how the votes should be organised on council?---Sometimes we see eye to eye like every councillor who is there. Sometimes we don't see eye to eye. It's up to the individual. We are, look, it's a democracy and everything's voted on. I never forced anybody to, to vote on something that I don't like. I can just get up, if I believe in something, I get up and put my argument through. It's up to them to support it or not.

But my question, Mr Hawatt, was different from that. My question was did you have discussions with Mr Azzi about how to vote on issues?

30 MR DREWETT: Well, I object to that. I object on the basis that the question is so general. I wonder if Counsel Assisting is talking in general terms or a specific occasion. Perhaps the question could be reframed in a way that my client would understand it and perhaps his counsel could understand it as well.

MR BUCHANAN: Did you have discussions with Mr Azzi as to how you should vote on issues before council?---No, we did not caucus together.

MR DREWETT: I object. I object to that.

40 THE COMMISSIONER: Sorry, I'm going to allow the question. Mr Hawatt started to answer it. I don't find it a confusing question, Mr Drewett, so I'm going to allow it.

MR DREWETT: Yes, Commissioner.

THE WITNESS: We don't caucus.

MR BUCHANAN: Who is we when you say that?---All the councillors.

My question though is different. My question is about you and Councillor Azzi.---That includes, that - - -

Did you have discussions about how you would vote on issues with Councillor Azzi?---There are certain times that we see eye to eye - - -

Sir, sir, sir, sir. Did you have discussions, yes or no?---Sometimes, sometimes. I mean your, your answer, you expect me - - -

10 And what were the occasions when you did have discussions with Mr Azzi about how you would vote on issues?---We had certain points of view, like, we both believed in having laneways on, on main roads. We both believed in having bigger setbacks. There are certain things that we both see eye to eye. There are other things we don't see eye to eye and we debate, debate it and argue it and it's up to the, the, the rest of the council to support it or not.

20 So in the period 2014-16, can you give us an example, please, of a planning or development issue where you and Mr Azzi disagreed?---I don't remember. You'd probably, you'd probably find it somewhere. I, I, just, you're asking me to remember from years ago. I, I mean, there were lots of development issues that come through council and there's hundreds of them. I, I wouldn't have a clue which ones he supports and which one he didn't support, but all I can say is it became clear that the, the mayor had no support and the rest of the, yeah, it was up to the rest of the councillors and whoever made, could get up and debate and, and support an issue or support a, the particular planning proposal. They were supported, voted on. Just normal, like every other council that does in, in Australia.

30 Mr Hawatt, you need to understand that the Commission has evidence, indeed it has a lot of evidence, that you and Mr Azzi were seen or understood to be, in the period 2014-16, controlling the numbers on Canterbury Council. Are you saying that all of that evidence is wrong? ---Well, it's your assumption. If people, if people, if councillor want to support me on a debate that I make and, and, and Councillor Azzi wants to support that, well, that's democracy. It's not control.

40 And in addition, the Commission has evidence about a great deal of different planning and development matters that came before Canterbury Council in the period 2014-16, and the evidence is that, with the exception of a period before the appointment of Mr Stavis and his starting work, you and Mr Azzi voted together and the other councillors voted with you and Mr Azzi, with the expectation of Councillor Eisler, occasionally Councillor Saleh and occasionally Councillor Paschilides-Chilas.---It's up to the individual councillor to make the decision, not I.

But you can see the pattern, can't you, that what that shows is that it appears that you and Mr Azzi were of the one mind on the planning and development matters that are before the Commission and that you had the

support of enough other councillors to form a majority on those issues. I'm just giving you the opportunity of responding to that.---Mr Buchanan, it's a democracy and it's up to each individual councillor to make a decision.

Well - - ?---If they want to support a position that the council has voted on, well, it's up to them, it's not up to me.

10 Mr Hawatt, I need to give you the opportunity of responding to this suggestion. The evidence that you've giving to us about this is misleading inasmuch as it does not address the question that I'm asking you and is a pretence as to what was actually happening in terms of how the numbers worked on council in 2014-16. What do you say?---I'll repeat, I have to repeat what I'm saying. It's up to, if I have an idea or support something and if Councillor Azzi thinks my idea is good and he supports it, it doesn't mean that we are conspiring together or the rest of the councillors, it doesn't mean we're conspiring together. Each person has their own independent mind.

20 And you can't give us a single solitary example of when you and Mr Azzi in 2014-16 disagreed on a planning and development issue before council?
---Well, I can say it's – actually there is, I just remembered now.

Thank you.---I just remembered now.

Yes.---One of them is in, an Islamic centre in Roselands that was put up and he, he opposed my support for it and he was against it and I was for it. We had our own arguments on that.

30 Did you vote against each other? That is to say did you vote one way and Mr Azzi vote the other way on that?---Well, I remember, I remember he was against it and I was supporting it.

Yes, but did it end up with different votes by you and Mr Azzi?---It, it, it, it did, but then we had to reach at council, if I remember, had to reach a compromise in order to give them an extension to put them on trial.

And did Mr Azzi agree with the extension?---With the extension, I think so, towards the end, yeah.

40 And you agreed with it?---Well, it's the right thing to do by the community I guess.

THE COMMISSIONER: And when was that?---That was during that same period probably, I don't remember the time, but there was a time when – and there's others but I just can't remember.

MR BUCHANAN: Before 2012 election when Mr Azzi became a councillor on Canterbury Council, what was the nature of your relationship with Mr Montague, how would you describe it?---Oh, friendly, normal.

And what degree of contact did you have with Mr Montague in the period 1995 to 2012 on council matters?---Look, if there was an issue that couldn't be resolved with the directors, so the next step was to the general manager and he had an open door policy and we discuss issues and he followed it up and that's how we, that's how, that's the contacts I made with him mainly.

10

Did that relationship change after the 2012 council election?---What, during, no, it didn't change, no.

The Commission has heard evidence that there was some hostility by you towards Mr Montague in the period December 2014 to the end of February 2015.---That's to do with Stavis, I presume?

20

Yes.---Well, that's because there was hostility there because there was some issues with regards to the, the way he was employed and the way he was sacked and I didn't want to see council financially liable, become financially liable, and that was only during that period and then we, we resumed our normal contacts with each other after that.

Did you in the period 2014/16 regard Mr Montague as someone who you thought was required to do what you wanted him to do?---That's wrong. No.

30

Not at any stage or over any issue?---Mr Montague has his own mind and his own ideas. I do not force anybody, I don't force my will on anyone.

Can we have a look at some SMS text messages extracted from your mobile phone, please. Exhibit 245. If you could go to the first page of the extraction. You have I take it reviewed the evidence that has been in the brief of evidence that the Commission provided to the parties? I'm sorry, Mr Hawatt, I do apologise. I know I took you to this but I actually wanted to ask you a preliminary question.---Oh, sorry. I - - -

That's okay.---Sorry.

40

That's okay.---I'm just trying to see what you're asking.

It's not your fault. My first question, though, is you have reviewed before today, have you, the evidence that is before the Commission in, for example, the documents in the brief of evidence that the Commission provided and made available to the parties?---I've, I've seen, I've seen most of them but not everything, yeah.

All right. How much time have you spent reviewing the evidence?---Oh look, I started reading then it became too heavy and just tended, you need plenty of time. I didn't have too much time to just keep reading and just lose patience after a while.

Even though a lot of it is about you?---Oh well, every second word is about me, yeah.

10 You didn't have curiosity sufficient to - - -?---Well, after a while it became so repetitive it's like I gave up.

I see. So you would have seen a table like this in the evidence that's before the Commission that we have here on the screen now?---That's correct.

And you understand it to be the data extracted from your mobile telephone? ---Correct.

20 And the table is set out by giving numbers to the messages extracted in chronological order. The party to whom or from whom the message is received is identified under the heading Party, then under the heading Dates you have the date and time and then you have under the heading Message on the right-hand side the content of the message. You understand?---Yeah.

So on the number 1 in the first page of Exhibit 245 is a message that you wrote on 20 September, 2014 but it wasn't sent and number 2 has the same message but continued more fulsomely. Can you see that at 10.10am on 20 September, 2014?---Yeah, I'm looking at that.

30 "Hi, Jim, the games have restarted again. Where are the LEP amendments, where are all the reports, where is the RMS letter? If developments along busy road are subject to RMS which we have addressed so why can't we finish the Gateway Determinations and let them approve each individual DA. Out lane access changes addresses their concerns if main roads are not being used, so what is the problem? We need to meet to discuss further. Michael." Do you see that?---Yep.

Do you remember sending this text message?---Well, now I do, yes.

40 And then can you see that the next text message, number 3 at 10.13am, was to a Mr Khouri reading, "We need to urgently meet." Do you see that? ---Yep.

And to Mr Azzi, number 4, says the same thing?---Yeah.

And number 5, to Mr Montague again, says the same thing, "We need to urgently meet." Signed, Michael.---Yep.

Now, just pausing there, looking at number 3, the message to Mr Khouri, had you had contact with Mr Khouri before 10.13am on 20 September, 2014, to allow him to understand why you thought when you sent him that text message you and he needed urgently to meet?---I don't remember what was the urgency for that.

10 Why didn't you tell Mr Khouri why you needed urgently to meet?---Again, I don't remember. There's people ring me every day at the, during as a councillor and people have different issues and, and I follow it up. He might have called me for some issue he had. I don't know.

20 Well, this series of text messages all seems to be about the one subject, and you've introduced it in your text message to Jim at 10.10am, message number 2. What had caused you to send that message to Mr Montague? ---Probably the staff, the planning staff in council, they always play games from, from memory and they were sitting, a lot of development submissions, applications had been sitting there for months and months and people will ring up and say, asking me what's happening to my, my DA, my application, and then you find out they're just sitting on it, and this is not right, people spent, people, I don't care whether they're developers or applicants or whoever they are so - - -

Yes, that's enough on that, thank you. We understand what you're saying. ---That's why, that's why, yeah.

30 But what was it, what was the document or what was the thing you saw or were told or that you read which caused you to send this particular text message at 10.10am on 20 September?---Look, I don't remember exactly but it sounds like there were some issues with staff sitting on things, that's, that's all I can remember on that.

Well, you told us that now that you read it you can remember sending it. ---I can remember sending it but the reason behind it - - -

What were the circumstances in which you sent it?---That's why I'm trying to give you some memory back is there was an incident where the staff were sitting on applications and I was getting a lot of complaints from, from applicants.

40 Well, you say applications, you mean development applications, don't you? ---Develop, that's correct.

Whereas the text that you sent is asking about LEP amendments, reports, the RMS letter and details about what appear to be concerns by the RMS.---No. The, the RMS supported my position actually, the one I'm supporting in regards to laneways, and they sent the letter from memory saying that they want laneways and the right lane access in certain streets and they needed for safety, and they actually supported the position I was taking for years on

council and, and as far as the other issue is, from, from again from memory but not 100 per cent sure on it, but there were some contacts from our staff to the director of planning to try and sabotage some of these developments. I mean there was - - -

But you don't say that in this text message, do you?---Well, I mean, that's, sounds, yeah, it does, it, it explains it.

10 Where does it say anything about staff members sabotaging?---Well, that's the, that's intention, that's the, the intent of the text message and I think the - - -

How do you know?---Because Mr Montague would understand, I would have spoken to him about it and, and he probably understands it. So, as far as I'm concerned, if I would have sent it to him, he probably understood it. So, I mean - - -

20 Well, what was the staff sabotage?---Well, they'd been sabotaging a lot of developments for years. Well - - -

What development are you talking about?---We're talking about developments along Canterbury Road, other developments, they just seem to sit on it.

Well, what was the specific incident? When you say, "The games have restarted again," what was it that you regarded as the games being restarted?---The sabotage.

30 What was the sabotage?---Sitting - - -

There are just descriptors.---Yeah, sitting on applications and not sending them to the Gateway for determinations. Not responding to an RMS letter that they, were received and, and they have a consistency of sabotaging things. I can give you some other examples where other - - -

40 You're not answering my question. The question is, what was the event, what was the thing that occurred that you regarded as either sabotage or the games restarting again that caused you to send this text?---It could be the letter or the complaints I received, a letter coming from the RMS or the letter, or the complaints I received from, from people.

Expect that you asked, in this text, "Where is the RMS letter?" as if you do not have the letter you're thinking of.---From, again, there was a letter that was sent to, to Mr Montague in regards to what the RMS wanted, in regards to the laneways along main, main roads like Canterbury Road.

But this doesn't sound as if you're happy with what the RMS is doing in agreeing with your approach to laneways. It sounds as if you're unhappy.
---No, it's the opposite. They supported my position.

Yes but don't you understand what I'm putting to you? This text sounds as if you're unhappy about the RMS.---No, I'm asking for the report on there.

What report?---The letter that the RMS sent. There's a letter that was sent to the general manager from RMS.

10

And so are you thinking of a particular planning proposal when you sent this text message?---No, I'm just thinking about people are complaining about their delays, that's all it is.

But a planning proposal is not a development application, you knew that?
---That's correct. So what's, what's the other one? People are waiting.

Well, you were unhappy about people having their development applications sat upon by staff.---That's right.

20

But what I'm suggesting to you is that this text message is about a planning proposal.---What happens is, if a DA comes in, if somebody says, "I need an extra two levels," for example, that becomes a planning proposal to the RMS to approve it because the LEP has a limited height and FSR. So, for us to change anything, it has to go back to the Gateway to make the determination. So it becomes, from a DA, it becomes a planning proposal because you're giving them that extra, extra bit and we put conditions on laneways. So what we're doing in this is, I don't know, I don't see anything illegal about this. It's just normal, normal day-to-day that we do as a councillor.

30

And in message number 4 sent to Pierre Azzi at 10.13am, again, you did not explain why you were telling him that, "We need to urgently meet."---I think it could have been an understanding of what I just explained to you.

How would he have understood that?---Because we must have had discussions prior to this text message about the delays and the sabotages that's been going on in council.

40

So does that mean that, given the identical message you sent to Mr Khouri, you'd had the same conversation with him or perhaps it was one conversation with both gentlemen?---He, he could have been ringing me regarding some, some planning proposal that he's pushing through. I don't know.

Are you talking about Mr Azzi or Mr Khouri?---Both. Both of them, I don't know, I just, I can't recall.

Was it often the case that you would convene a meeting with Mr Montague, Mr Khouri and Mr Azzi?---No, it's not that often unless there's some issues.

How many times did that happen?---I, I don't, I don't recall.

If it didn't happen very often, then the likelihood is you would recall the circumstances in which something unusual like that happened?---Well, that's why I'm giving you the general answer. The - - -

10 Yes, but I'm asking you if it didn't happen very often surely you can recall it because - - -?---I don't recall.

- - - it would have been unusual?---No, I don't recall. Everything in council is unusual. For the last 20 years everything we've been doing is unusual. That's the way council operates.

20 Then message number 6 at 10.14am on 20 September is from Mr Khouri asking where you were. You replied that you were in Earlwood. He responded 10.14am, "30 minutes", indicating he was 30 minutes away. Do you see that?---Yeah.

You replied, "Okay." Then message number 10 Mr Azzi said, "Come, I'm home." Message number 11 Mr Khouri asked, "Mate, where are you?" You responded, "Here, Earlwood." Do you see that?---Yeah.

Then message number 13 to Mr Montague, "Are you coming? Pierre and et cetera are waiting in Earlwood for you." Was that about Pierre, Mr Khouri and you?---I don't, I don't recall that meeting or discussion.

30 Well, we can see, though, that you've arranged for Mr Khouri to come and he's agreed to come and you're talking to Mr Azzi about him coming to the meeting, so you've got the three of you together waiting in Earlwood for Mr Montague. Is that the way we should understand what happened here that's represented by these text messages?---It could be. I just can't recall. I mean, this, this type of meetings and discussions is general and happens all the time. It's like nothing unusual. We always meet for coffee. We always discuss issues and things like this. That's, that's what every councillor does.

40 The three of you, that is to say, you - - -?---Three, sometimes more.

- - - Mr Azzi and Mr Khouri?---Sometimes more, sometimes less. It happens all the time. I meet people all the time.

Why on this occasion was Mr Khouri involved?---He might have had an issue. He might.

And can you tell us from your experience of Mr Khouri was there any particular party, person or entity?---He's a Labor guy.

Yes. Would there have been any particular person, though, or company that he would have been concerned about in relation to what you were concerned about in your text message to Mr Montague?---I don't recall but he might. I just can't recall 100 per cent.

Well, it would have been his own, he would have been, he would have had an interest in this particular matter, looking at these text messages, because of a relationship he had with somebody else. Would that be right?---Maybe.
10 I don't know. I can't recall.

Or would it have been an interest of his own?---I don't recall but it doesn't really matter.

Why doesn't it really matter, Mr Khouri, Mr Montague, Mr Hawatt?
---Mr Hawatt, yeah. That's okay. Because this happens all the time. As, as a councillor we get calls every day to meet people - - -

No, no, no, no.---?--- - - - with their issues.
20

No, you're misunderstanding me. We have here four people - - -?---On this one.

Four people who are identified in these messages and I'm only asking you about the relationship you had with these people here in this series of text messages. Do you understand?---I understand, yes.

Are you saying to us that you regularly had meetings with Mr Khouri and Mr Azzi about planning and development issues?---What I'm saying to you
30 - - -

No, no, no, no. Are you saying that or not?---Sometimes we have meetings if there's an issue, sometimes we don't.

And what were the sort of - - -?---At this time there was an issue.

What were the sort of issues that you and Mr Azzi and Mr Khouri had meetings about?---Oh, there's lots of things we discussed. He even discussed about manufacturing of windows in China. I was like - - -
40

I'm talking about planning and development issues.---I'm talking about could be any, I can't recall. That's what I'm saying to you. I can't recall and I'm just giving you some ideas what we discuss and this is one of them as well.

Which particular site or sites?---It's, I can't remember which one it is. It's been a while. It's years ago.

Well, thinking of Mr Khouri, which site or sites did he express to you an interest in?---Mr Khouri was a Labor guy. He was more interested in Labor things and tried to bring things together but as far as I'm concerned the issues that he, I think he was lobbying on behalf of, I don't know, he was representing some people like Demian and, and - - -

That's D-e-m-i-a-n?---Yeah, he, I think he was representing him and he was representing who else, what's his name, I forgot the guy's name.

10 I'm sure you haven't forgotten his name, Mr, Mr Hawatt.---Marwan, Marwan, his name is Marwan.

Mr Hawatt, you know Marwan Chanine, don't you?---Chanine, Chanine.

Could it have been, as far as your involving Mr Khouri in this meeting was concerned, a development in which Mr Demian had an interest or Mr Chanine had an interest that made you think he should be at this meeting? ---No, I don't think so. I don't recall but I don't - - -

20 Why not?---Because Demian does his own work, he doesn't rely on, on anyone, he does it directly. He'll pick up the phone and, and call the council or call the GM or call the director, he, he, that's his, that's the way he operates.

So could it have been a property in which Mr Chanine had an interest - - - ?---Well, again I can't recall.

- - - that you thought meant that you should involve Mr Khouri in this meeting?---I don't recall Chanine having anything in, in regarding to some of the planning, I just don't remember that, that he has planning, I just don't remember, no.

THE COMMISSIONER: Sorry, you don't remember whether he had what, any - - -?---He had any - - -

What, applications?---Planning, applications for planning proposals, no I don't.

40 MR BUCHANAN: What, in 2014-16?---Yeah, 'cause I really didn't know him that well until towards, like the end of the council period, like the last year before we were sacked or something, but - - -

And what caused you to become acquainted with Mr Chanine?---Because he was calling, everybody calls me for, because I'm the only one who understood a bit of planning and, and, and, and I was genuinely supporting people who, who could call me.

What was he calling about?---I can't remember which site he had. He might have had one in Campsie if I remember now, could be one in Campsie. That's ah, I think that's the only one I remember.

You remember one near Canterbury Station on Canterbury Road?---Oh, the one with the doors?

Yes.---Yes, he, he called on that one too, yeah. That's a, oh, anyway, it's, it's, it's a bad site that one, yeah.

10

What properties did Mr Khouri have an interest in, as far as you understood it, himself?---I don't know, you've got to ask him. I don't know what interests he has, I don't know.

I'm sorry, I'll rephrase my question. What was your understanding of the properties in which Mr Khouri himself had an interest?---When he lobbies for, like trying to help, get, seek help for?

20

Well, you can tell us later because I'll ask you, but first of all, what were the properties in which he had an interest and then we'll go into the nature of his interest.---Well, I know Demian was, he was working for Demian.

Yes.---And ah, and Chanine I think. They're the only ones. That's from memory.

Any particular sites or locations or types of - - -?---Oh, I think it's just general.

30

Anything that allows you to recall what site it was?---Well, there's, the site is the, the one, as I said, the one on Canterbury Road, the old Harrison's.

Yes. That was a site that Mr Demian had an interest in.---Yeah.

And did Mr Khouri have an interest in that as well?---No.

Did he have a stake in it?---No, no.

40

Did Mr Khouri have a personal stake in any of the properties?---I don't know that, personal stakes.

You don't know?---How would I know?

Well, he might have told you.---He's not going to tell me his business. No one tells, no one tells me their business, what they're doing. I don't tell people my business either.

So Mr Khouri never discussed his business with you?---No.

I see. He never expressed an interest in any property that was in the Canterbury local government area that was - - -?---He, he - - -

- - - coming before council or was before council?---He is no different to the thousands of calls I've got in the last 20 years to help people. I don't treat anybody any differently, Mr Buchanan.

Well - - -?---And no one influences me to do the wrong thing, if you're trying to turn that around.

10

But what we've seen in these text messages on the 20 September, 2014, is that you invited, indeed all you said was, "We need to have an urgent meeting," to Azzi and Khouri. You didn't invite anyone other than them, except for the general manager, and the question is, why didn't you invite somebody else? Why did you invite those two as well and the general manager?---Well, at that particular time, it could have been for a particular issue. I mean, I can give you a mountain of files of the - - -

What is the particular issue?---I can't recall.

20

Can you think of any particular issue?---I can't recall. All I can say - - -

Do you recall any particular issue where you knew that Mr Khouri would be interested in it as well as Mr Azzi?---I just remember, no, there, there could be another one. I just remembered one. In, in Campsie. In, in, not, in Brighton Avenue, Campsie.

Yes and what's the question to which that is an answer?---I think there was a, there was some, what do you call it, lobbying, you could say, on behalf of that particular owner.

30

By Mr Khouri?---By Mr Khouri, yeah.

Who was the owner?---I don't remember. I don't remember the owner.

What we can see, though, in those text messages that you've looked at is that there's no property identified.---That's correct.

Which would tend to suggest that it's a more general concern that you had in your mind at the time that caused you to think that an urgent meeting was required.---He might have contacted Mr Montague and complained to him as well, I don't know. I don't know, I mean, I can't recall this. He, he could have complained to Pierre Azzi as well. I can't recall. I'm not the only one who gets complaints.

40

Did you sent texts to other people and say that you needed an urgent meeting with them without telling them what the subject matter was and

expect them to attend?---I have sent hundreds of text messages, not just those particular ones, over my 20 years.

Yes, that's not my question.---Well, that's an answer.

10 The significant point that I am drawing attention to at the moment is that you did not identify in your texts to Mr Khouri or Mr Azzi the subject matter or the reason for an urgent meeting being needed. And what I'm asking you is, were there other people to whom you sent messages, essentially demanding an urgent meeting without identifying the subject matter or the reason?---I, I don't recall. Again, I have done similar thing throughout my whole 20 years. This is not the first time.

20 Can you please tell us, who had you demanded urgent meetings with without identifying the subject matter or the reason for needing a meeting apart from Mr Azzi and Mr Khouri?---Well, there could have been a, there could have been a verbal discussion, that's why everybody knew. From, from what I'm reading in the text message there, it sounds like they understood the problem and there's no need for me to explain the, the reason behind it because they understood it.

How would they have understood it?---Because there could have been a verbal discussion, I don't know.

Is there any other explanation you can give?---Well, what else could there be? There's no conspiracy on this. This is normal. I did this all the time, this is like normal. I had nothing to hide.

30 It we could look again at the messages, if I could take you to some subsequent messages the same day. If we can go down to number 12, number 13. Now, focusing on the message to Mr Montague, number 13 at 11.49am, you said, "Are you coming? Pierre and et cetera are waiting in Earlwood for you." Now, can I ask you, was it normal to address the general manager in that way and express perhaps impatience that he hadn't responded to your earlier texts?---No, that's incorrect. We have a very relaxed relationship with Mr Montague. We, we, we have a friendly relationship and we see eye to eye and we don't need to be that formal with him, no.

40 Why – I withdraw that. Was it normal for you to demand that Mr Montague attend meetings with you - - -?---That's not - - -

- - - and Mr Azzi and Mr Khouri?---That's not a demand, that's probably the way you can interpret it, but that's not the way I, it's not the intent of that message.

THE COMMISSIONER: All right. Putting aside the use of the word demand, was it normal for you to - - -?---Yeah, it is normal, yes.

Excuse me, let me finish the question. Is it normal for you to arrange meetings outside council with you, Mr Azzi, Mr Khouri and Mr Montague?
---Yes.

MR BUCHANAN: How often did that occur?---Hundreds of times.

Just the four of you?---No, not just the four of us.

10 Well, that's my question, that's the Commissioner's question, the four of you?---The four of you's not hundreds of times, I'm talking about everybody else a hundred times.

Well, do you want to think about your answer, then? The four of you, how often was it that you arranged or attended a meeting with just you, Mr Khouri, Mr Azzi and Mr Montague?---It depends on the issue that comes up, depends if the - - -

20 How often did that attend - - -?---I don't remember.

I'm not asking you to reason why, Mr Hawatt - - -?---I don't recall.

Mr Hawatt, listen, listen, please. How often did that sort of thing occur, the four of you meeting out of council?---I don't recall how often, but whenever there's an issue we could, we meet and discuss it.

It sounds from your evidence as if it's the sort of thing that happened at least every now and then, if not regularly.---Every now - - -

30 Is that a fair construction to place on your evidence?---Every, every now and then.

And why was it that Mr Khouri was in attendance at these meetings of the four of you?---Because he might have put a complaint to Mr Montague.

And you organised these meetings, did you?---Well, if he made a complaint to me and I understood the issues and sometimes I organised it, sometimes they do or he does, I don't know.

40 And what was the nature of Mr Khouri's complaints that led to these meetings occurring with him being present and Mr Azzi and Mr Montague?
---It could have been a complaint that he made, it could have been a social
- - -

No, I'm not asking you to speculate, I'm asking you to tell us - - -?---Well, that's what, the whole thing is speculation because I can't remember exactly.

But you can tell us that you know that the four of you did have meetings every now and then out of council.---Yes, and that's normal.

And what's normal about it?---Because I've done that many, many, many times with different people.

Why was Mr Azzi at these meetings rather than some other councillor?
---Because he probably received the same complaint.

10 Mr Hawatt, just if you could think about the questions that you're being asked before you answer them. You need to understand, if you don't already, that there's a very large amount of evidence before the Commission that you and Mr Azzi worked as a tag team.---That's incorrect.

What's incorrect about it?---Because this, the wording tag team sounds like you are accusing us of wrongdoings, which is, it's, it - - -

That'll come later.---It's an insult.

20 That'll come later.---It's an insult to me, that is.

Just at the moment all I'd like you to do is to think about what actually occurred in the past and the way that you operated politically at Canterbury Council, and the evidence before the Commission is that in the period '14-'16 you and Mr Azzi worked together on planning and development matters continually to the exclusion of other people.---I didn't realise that was illegal.

30 So are you saying yes, you understand that it is what happened?---No. If he saw, if we saw eye-to-eye on certain things, then we saw eye-to-eye on those things. It's a democracy. We vote on it.

Did you have meetings as regularly with other councillors?---Yes.

You didn't, did you, Mr Hawatt.---Yes, I have.

40 It's an answer that's false to your knowledge.---No, it's not. I've met many, many times in Earlwood, we used to go for pizza, have coffee, a lot of the councillors. More than one, not just Azzi, so sorry, what you're telling me is incorrect.

Now, can I ask you about the next message, number 14. It's from Mr Montague. He says, "Later. I am at the opening of Rotary Park in Riverwood. I'll call." That would sound like council business, wouldn't it?---Sorry, which number?

Number 14.---Yeah, he probably was doing something, yeah.

And that message was at 12.03 and you responded a minute later saying, "We are waiting."---Yeah (not transcribable) we're waiting.

It sounds as if you were impatient for him to attend the meeting in Earlwood that you were asking him to attend.---I'm sorry, but that's your interpretation. That's incorrect.

10 What's incorrect about it?---We're waiting, we're waiting. It doesn't have to be impatient. He said I'm coming, he's coming. I mean, you're saying impatient. What makes it impatient?

THE COMMISSIONER: Well, he didn't say I'm coming. He said, "I'll call," and then you fired - - -?---It's on my way.

- - - you fired back in about a minute or less than a minute, "We are waiting."---Yeah, that's fine. That means we're, we're sitting there waiting.

20 MR BUCHANAN: Why was the meeting at Earlwood?---That's a regular place where we meet socially.

But why couldn't the meeting have taken place at council?---We could be at council, because we could be at the club, we could be anywhere. That's, generally we meet after hours. We don't, council closes. The building is closed unless we have an official meeting and so we have to meet outside.

30 So was this a meeting at which you intended council business be conducted?---We are part-time councillors and we meet wherever someone calls us to meet. It doesn't matter in or outside council business. That's our job.

But you were calling this meeting.---I was calling this meeting after hours. Presumably. I can't remember.

It's not. It's lunchtime.---Or lunchtime. Yeah, that's normal. I mean, I'm not denying I didn't call it. It's normal to me.

40 Was it because Mr Khouri was going to take part in the meeting that you didn't want to be seen with Mr Khouri and Mr Montague and Mr Azzi together at council chambers?---Oh, that's incorrect. Everybody knows Mr Khouri. He's a Labor guy. He's always attending I mean, functions and, Labor functions and council events. That's, that's not right.

Was he always attending meetings with councillors and the general manager?---I don't think so, no. I don't, I, I rarely see him but I've seen him at events, so council functions and events.

If I tell you that 20 September, 2014 was a Saturday, does that assist you in recalling this particular occasion?---No.

You were demanding, I suggest, Mr Montague attend this meeting of you three at Earlwood on a Saturday.---So if, if he was in Riverwood that means he was available and I'm not demanding he's available to come and meet us.

And then you told him, message number 17, "Come to Salvatores café in Homer Street opposite Minnamorra Avenue just past service station." Why were the three of you meeting there?---Because there's a coffee shop there.

10

Yes, but why there?---Because we meet there many, we've met there many times.

Was George Vasil there on this occasion?---I don't remember.

You've had meetings with George Vasil - - -?---Yeah, of course.

- - - in Earlwood.---Yes, many times.

20 Have you had meetings with him at Salvatores café?---Yes.

And is it possible then that Mr Vasil was also at this meeting?---Possible but I'm not sure. I can't be a hundred per cent. I don't remember.

You see, what I want to suggest is that this series of text messages shows that a, provides an insight into the relationship you had with Mr Azzi and Mr Khouri on the one hand and Mr Montague on the other hand. That it shows that you were sufficiently close to Azzi and Khouri that they would immediately agree to attend a meeting that you said you wanted even though you didn't say what it was about. What do you say?---I just say this is a very normal thing that I'm doing.

30

And it shows that the nature of your relationship at this stage with Mr Montague was one whereby he was, so far as you were concerned, subservient to you.---I'm not clear on that question.

He was your servant. Sorry, the servant of you and Pierre Azzi.---That's ridiculous. No, that's ridiculous.

40 Because you said, "Pierre and et cetera are waiting."---Sorry, but, look you're insulting our intelligence on this one. No. I'm afraid Mr Montague has, is, is an intelligent human being and we were all human beings, we do not insult each other like this.

Now, George Vasil was the principal of Ray White Real Estate Earlwood in 2014-16, wasn't he?---Him and his brothers.

In 2014, how long had you known him for?---I've met, I've met George, look, I met him probably around 1995 when I first got into council, but we didn't have any close relationship at that time, no.

In 2014, how would you describe your relationship with Mr Vasil?---Very friendship [sic], very friendly.

And you shared the Liberal Party political affiliation?---Correct.

10 Can I ask you to think about the recruitment of Mr Stavis to the position of director of city planning position. Did you have contact with George Vasil about that?---No.

Did he have contact with you about the recruitment of Mr Stavis to that position?---He might have spoke about it generally but I don't, I don't recall. I don't recall.

20 Did Mr Vasil give you his opinion as to the suitability of Mr Stavis for the position of director of city planning?---He could have but I don't recall because Mr Vasil is, has always opinions, he's got very strong opinions on a lot of things.

How did you – I withdraw that. What were the circumstances in which you first heard the name or read the name or came across the name Spiro Stavis?---When he applied for the position as the director.

30 So how did you find out the name Spiro Stavis?---Someone might have asked me to meet up with him. I just can't recall exactly who it was but there was a, we had a meeting with him. This is just prior, before he was appointed.

But how did you find out about his name in the first place?---I, I don't, I don't recall. I've never met him before, before that.

Yes. I understand that but, you know, you had the man working for council for over a year, you knew him for a longer period than that and my question is how did he come into your field of vision?---Sorry, when you say I knew him.

40 Well, you knew him before he was appointed director of city planning. ---No. I only met his, as I said, before the interview one day.

Well, that's before he was appointed director of city planning.---You said a year, you just mentioned a year before that so that's incorrect. I met him, sort of, as I said, a day before.

How did he come within your field of vision, though? How come you heard about him at all?---People ring me and lobby me every day as a councillor.

Why do they do that?---Because people think we can, we can help them, we can try to help them but at the end of the day, we do what morally is correct. I don't get influenced by anyone that, no matter who they are, be it my mother, my brother, my wife, my daughter, I believe I do whatever I believe is correct. And I listen to people, it doesn't mean I've got to follow what they want.

10 But how did you first hear the name Spiro Stavis?---As I said, somebody asked me to meet up with him beforehand.

Who was that?---I don't recall. Honesty, I don't recall.

So someone asked you, you're quite clear about that?---Yes, definitely. I know the guy, that's how I know who he is.

Who is he?---Stavis. So there's, there's no contact with him.

20 Was it Pierre Azzi?---I, I don't think so.

Did Pierre Azzi say anything to you about Stavis before you and he met with him?---No. Look, he, we were, I can't remember why we, we, we met him in Marrickville. There was an incident, we met him in Marrickville and there was some, again, just reading through some of the transcripts saying that, yes, there was a site where they had laneways and that's where the laneway idea started coming for myself and, and, and Pierre at the time and we had a look at it and then Stavis was, was there, like, across the road and we went and saw him just to see what he wants.

30 Did you have any -- I withdraw that. Did Mr Vasil say anything to you about Mr Stavis?---I, I don't recall. I don't recall.

Did he ever say anything to you about Mr Stavis?---He might have. Afterwards everybody got involved, but during the period of after the interview, after he was employed, everybody got involved, but before that I don't recall.

40 Well, did you think that Mr Stavis was a good employee, just sitting there now?---Look, at first I didn't support him, I have to be honest, Pierre and I did not support him.

No, no, that's not the question I asked you. Did you think he was a good employee? So he's an employee - - -?---Oh, as an employee.

- - - did you think he was - - -?---Yes, he was, he was, yes.

All right.---Sorry.

So surely you would have reason to recall the circumstances in which you first came across him.---I just, I just told you.

Yes. What were those circumstances?---We, we met him a day before the interview.

THE COMMISSIONER: But you must have heard the name before you met him at Marrickville.---Well, someone, someone raised, that's why we met him, somebody must have mentioned it to us, but I don't, I don't, I
10 didn't know who he was.

So you're saying the first time you ever heard the name Spiro Stavis was when this person you now can't remember rang you and said something along the lines of, will you meet Mr Stavis at Marrickville?---Correct.

MR BUCHANAN: And so the person, I just want to be clear about this, the person suggested that you meet Mr Stavis at Marrickville. Is that right?
---Well, we happened to be, for some reason, I don't know why it's
20 Marrickville, but I remember we were visiting, we visited a site there to have a look, so he might have, he might been there or, or he just went there to meet us, I don't know.

Did the person say to you that Stavis will be at Marrickville at a particular time?---Maybe, maybe, maybe. I can't, I can't recall. Maybe.

Did you go to Marrickville to meet Stavis?---We went to Marrickville actually to, to look at this site on the, for a laneway, and then we, we - - -

Did you go there to meet Stavis?---We met Stavis, yes.
30

No, did you go to Marrickville for the purpose of meeting Mr Stavis?
---Look, I don't recall, I don't recall, but I recall again we went to have a look at a laneway and Stavis was there, so it could have been both at the same time.

And what was the laneway?---There was a laneway across, across the road where the café is and there was new development there that was based on laneways. We just wanted to see what, what laneways looked like and how the developments work on there.
40

Can I go back, please, to Mr Khouri. What did you understand was the way Mr Khouri earned a living?---He's a lobbyist.

And what did you understand in 2014-16 was what he did by way of lobbying?---That's his business. I wouldn't have a clue. What I know, all I know is he's a lobbyist, that's it.

And who did he lobby, as you understand it?---He lobbied everybody.

Did he lobby people at Canterbury Council?---He might have. All I know is when he, if he calls me, I know he called me but he doesn't tell me who else he called. He's a close friend to the mayor as well so he might have called the mayor, I don't know.

Where did you get the idea from that he was a lobbyist?---Well, that's, that's everyone's understanding. Yeah, we might, we might be wrong but that's, that's our understanding of he's a lobbyist.

10

And when did he start being a lobbyist, as you understand it?---That's always been the case for me.

And when did you first meet Mr Khouri?---Oh, Mr Khouri, I've known him, oh, many, many years ago, but we didn't have any close relationship, we were enemies, basically Labor/Liberal enemies at the time and he was always working against me when I used to run for elections. So no, we didn't have that close relationship.

20

You developed a friendship with him, though, obviously.---Oh, yeah, towards the end.

And when did that friendship start?---Well, I developed friendships with a lot of people that hated me in the past.

No, no, no. When did the friendship with Mr Khouri start?---Probably maybe two years before the council was sacked.

30

And what was it that caused you and Mr Khouri to become friends? Was there a particular issue?---Yes, there was. Yes, there was, there was. I remember very well that one because I, I recall there was a complaint made to me regarding, regarding some lobbying things, and I put the complaint to the general manager because he was, he knew him, and I said, look, you know, I've received complaints regarding – I can't remember what it was for, but I put a complaint to the GM about him, and, and then - - -

40

THE COMMISSIONER: Sorry, you complained about Mr Khouri?---Yeah, yeah. And, and then he must have got that, that I complained about him and, and he asked if I can meet up with him so he can explain his position himself. And then I realised that the person who complained was also a lobbyist who wanted him out of the way, so it became more political, or business, so I, then I did meet him and I remember meeting him at Burwood for a coffee.

MR BUCHANAN: Mr Khouri?---Mr Khouri. This is long, a while back regarding to that.

Before 2014?---Could be just before that, yeah, but we still weren't friends, and he explained himself and, and I accepted it and just walked away, and I thought someone's using me to, to try and, and turn against him, so I wasn't going to get involved in that.

After that, you and Mr Khouri were on good terms?---Oh, then we just started speaking slowly and then built up and built up. People would ring me and I'd respond to them and, you know, just takes, goes from there.

10 And who was the other person who complained about Mr Khouri?---I have to tell you, Joe Tannous.

How do you spell the surname, sir?---T-a-n-n-o-u-s.

Thank you.---He's a Liberal, he is a lobbyist.

And was it about a particular site?---Look, I, I, I don't remember but he was complaining about him. I think there could have been some issues between them and that's how it started.

20

And how did the general manager respond when you took Mr Tannous's complaint to him?---Oh, he was, he was, he was taken back because of, he was, he knew him well. He was - - -

Knew Mr Khouri well?---Mr Khouri well, yeah, and he spoke highly of him. He said, look, he's not, this is not correct. This is, he's not the type of person and, and then, then that's why he must have told him and, and then I got the message from another, a third party, to, to meet up with him.

30 To meet up with Mr Khouri?---Yeah.

What was the complaint about? That is to say, what was the performance or the behaviour or the thing that Mr Khouri was alleged to have done that caused the complaint to be made and for you to convey it to the general manager?---Look, it's in the text message that I sent the GM at the time. I can't remember. So you have to go back and find, find the text messages on that, but I don't remember.

40 And you understood Mr Khouri to earn a living, he supported his family by lobbying?---Well, that's, that's how I knew him, from there, at that time.

You understood he earned a living, though? He derived an income?---Of course, yes, he, well, I understand everyone has got their own business. I don't know. That's like a guess.

Who paid him his income, as you understand it, in 2014-16?---Well, if he's, if he's working for Demian, I presume Demian was.

And did you presume that Mr Chanine, Mr Marwan Chanine, was also paying him an income?---No. I, I didn't presume that, no.

So where, as far as you understood it, was it that Mr Khouri was earning his living as a lobbyist apart from Mr Demian?---Actually I just remembered, he's, he used to, he used to earn, because, yeah, he was also earning I think, if I'm remembering, from some other people. I think it was Sam the Paving Man if I remember. He was earning some money, he was working for him.

10 Yes. Anyone else?---That's all I remember because I remember he was, he told me about it.

He didn't tell you about anyone else he was working for?---He didn't tell me Sam the Paving Man because he was part of the group (not transcribable) told me.

I see. I see. Thank you. What was the relationship that, as you understood it, Mr Khouri had with Mr Montague in the period 2014-16?---Just an amiable relationship with him. Like, they're friends. They'd go out
20 together, dinners, lunches, Labor thing because Jim was involved with the, heavily with the Labor guys, and that was it.

So you became friends with Mr Khouri, a Labor-oriented lobbyist. You became friends with Mr Azzi, a Labor Party councillor, is that right?
---Correct. I look at people, not the party.

Why weren't you a member of the Labor Party, then?---I used to be.

30 Why weren't you in 2014-16 a member of the Labor Party?---Do I have to be?

Mr - - -?---I, I, I - - -

THE COMMISSIONER: Mr Hawatt, please answer the question.---I know, but because I'm a member of the Liberal Party and I believe, I believe in the Liberal philosophy.

MR BUCHANAN: That didn't cause any antagonism between you and your Labor Party friends, Mr Khouri and Mr Azzi?---No, because we never
40 looked at each other as Labor or Liberal. We looked as each other as people. We worked together on issues and, and tried to work on it that way. Nothing to do with Labor/Liberal. Like, the mayor wanted, wanted to create this division between Labor and Liberal, but the rest of the councillors would not have it.

Now, you knew Mr Demian in 2014-16, is that right?---Yeah, yeah, around that time.

When did you first meet Mr Demian?---He rang me once regarding his, his issue he had on, in Harrison's, to do with the Harrison's, because he put, he put in an application, DA, if I remember, and I was, we had the previous director Marcelo, and he was, he had the plans, he said, look, this is what I received and I want you guys to have a look at it. And then I made some suggestions and I was looking at the plans, this was way before, and I said, look - - -

10 Who asked you to look at the plans?---The previous director.

Marcelo Occhiuzzi?---Marcelo, yeah.

Yes?---And we looked at the plans and I made some suggestions to the, what should be done, because it was on Canterbury Road, and, and, and, you know, laneways are something that I truly believe in, and the separation of the buildings, and I made a suggestion there should be bigger separations instead of the narrow ones that they had. And, and then after that I started getting calls from, from Charlie Demian, and I complained to him, I said, "Look, I'm glad you called me because why didn't you make the
20 separations wider?" He said, "I wanted to but, but Marcelo wanted it narrower." And it's like, I thought, is this for real? It's like, it's more open space with, with green, greenways in between and he wants it narrower? I thought that's, what Marcelo did was wrong on that, on that one. Anyway, that's how we met after that.

Did you become a friend of Charlie Demian?---Look, Charlie started trusting me because he knew I understood his issues, and it's, sometimes it's very difficult to understand what the problems were in planning, and I had a good, a good, a reasonably good understanding of planning and I understood
30 him and I could, you know, at least present his, his, his argument to council and take it from there, and he respected that.

And does that mean that you became a friend of Mr Demian's?---Well, I don't socialise with him. The only time I met him is at Pierre's place or at council. Sometimes we'd have coffee and, and that was it. I've, I've never socialised with him in, in any other way.

And so how would you describe the nature of your relationship? What words would you use? What label would you use?---It's, it's an amiable
40 relationship.

And whilst he had matters before council in 2014-16, how often did you and Mr Demian have contact with each other?---Oh, whenever he had issues. Like, if he had issues with, with the planners or the directors and he couldn't resolve it, he used to ring us up.

And when you say "us", you mean you and Mr Azzi?---Well, me mainly. Not, not, more myself.

And what was your understanding as to why he rang you rather than Mr Saleh or Mr Nam?---Because, because probably out of most of the councillors, I have to honestly say I was the only one who at least answered the calls, respond to people in an honest and honourable way, and, and I fought tooth and nail for helping people, and that's, and that's how they respected me for it.

10 Do you think people might have contacted you asking for help with planning and development matters before council because they thought that you had a large degree of influence over the decisions that would be made?
---No, that's incorrect. Because I understood the issues.

Assad Faker, you knew him?---Yes, I, he called me again. He's one of the people who rang me for help.

And for help about what?---About his development.

20 Which development was that?---Well, the first time he called me was when he developed this in Ninth Avenue in Campsie.

Yes.---He put a development up and at the end, after the development I received a call from him saying look, he wanted to do something on the roof and I made some inquiries on his behalf.

Why?---Sorry?

Why?---Because he wanted to do something on the roof.

30 Yes. Isn't it normal, though, for people who want to do something on the roof to perhaps have a pre DA meeting with council staff and if they're still so inclined to lodge an application, be it a DA or a section 96 application?
---Our staff were not that helpful I have to honestly say. That's why we used to get, you think I enjoy getting calls? But they weren't, if they were helpful it would have been great for us, all of us as councillors.

40 When you say they weren't that helpful, do you mean they weren't that helpful to developers?---To a lot of people. I've, I've received complaints about a lot of things. They just, they just wouldn't try to assist them to find ways and find solutions, trying to find how to fix their problems and issues.

What were the problems and issues to which solutions needed to be found as you understood it?---Well, I'll, I'll just give you an example. George Gouvatsos is one of the, the senior planners who was, and at one stage I, when I first got into council sending emails trying to help people, and the response I used to get was oh, we can't do this, we can't do that, we can't do this, and I used to forward those to the people who used to call me for complaints and I just got a bit sick of it and I said, look, George, I said,

could you tell me why, what is the solution? How could we help these people? And he actually, he said, look, Michael, if they do it this way and that way and this way then we can look at it. I said, oh thanks, why didn't you tell me this in the first place? Why didn't you tell the clients this in the first place? Why don't you tell them to go and fix it? But they don't seem to like to do that for some reason so people call us because they have these problems. And then I started doing a bit more research in regards to planning, understanding planning, so in order they can't pull the wool over my eye, and I became a bit more smarter than the average councillor in regards to planning. So if, if somebody rang me regarding some issues I pretty quickly understood their concerns and I knew whether they were genuine or not so that's how I took it.

You thought it was the job of planning staff to provide solutions to people who had development applications in council or planning controls they wanted to change?---Correct. They had solutions. It's like you as a lawyer. If somebody asks you for help you'd show them which way to, to be doing it and they should be, as, as responsible staff say look, if you do it this way and that way and bring it back we'll look at it.

Why isn't that the job of designers and architects that are paid money for that purpose by developers?---Because that's why we're, we're here as councillors because we're the only ones who seem to be able to listen to the resident.

No, that's not an answer to my question.---Because they don't help anyone. I have honestly say they don't help them.

That's not an answer to my question.---The planners do not help anyone.

That's not an answer to my question. You understand there's an entire industry out there of private planners, private architects who are available for hire by development proponents to advise them as to how they can find solutions to their development issues. There's a whole industry.---Yes, and most - - -

Why can't developers use people from that industry - - -?---They do.

- - - to provide solutions?---They do.

To come up with solutions?---They do.

It's not the job, is it, of council staff to provide solutions?---It is. It is.

Why?---Because most of the people who called me were planners, architects, not just developers but actually their staff. The people who are supposed to be the experts they're the ones who call me. They're the ones who are having problems.

It's still not an answer to my question. Why in your opinion was it the duty in 2014/16 of planning staff and assessment staff at Canterbury Council to provide solutions for the problems that developers had?---Because the planners in Canterbury at the time were not supportive of anyone. They did not help anyone. That's why they called us.

You're still not – why is it their job to help people?---It is their job to help people.

10

Where you do get that idea from?---Because they're, they - - -

In terms of providing solutions to developers, where do you get the idea from that it is the job of council planners and assessment officers to provide those solutions to developers?---Okay, can I give you an example?

If you can answer my question first.---Yeah, but I'll give you an example of why.

20

If you can give an answer to my question.---The people who call me are these experts. They're the ones, the reason they call me because they're not getting anywhere with council. I'm talking about architects and planners, professional architects and professional planners who the developers hire to do the work and the staff from council is not supporting them and they're giving them a, a wrong information and, and, and push them away.

30

Did you think that it was the job of council staff to apply the planning controls, the law in relation to development applications?---The planning controls are based on objectives. It's not the controls, it's the objectives. The controls are based on the objectives. So in other words, the council staff sit there with a check-list and they just tick it. They don't know if next door is a storm, stormwater canal or an industrial site or, or a park or a highway or a road. Those controls do not apply if you are next to a road or next to a park but they still apply them and that's wrong.

40

And it became the case, did it, that planners, private planners and private architects and developers would contact you to try to obtain solutions when they weren't able to obtain them from council staff?---Correct, because I understood the objectives.

When did that process start of people approaching you for solutions where they couldn't get the solutions from council staff?---Well, can I just say the first time an architect rang me on behalf of one of, one of his - - -

When was this, sir?---During that period?

2014-16?---Yeah, the beginning, no the beginning of '13 or '14.

No, forget about that architect. Why was it, as you understand it, that you weren't contacted before that architect contacted you in 2014-16? What happened to change things?---Because before the Labor Party were in complete control. They were dictating all the terms.

So it was about control of council as to why people rang you?---Well, not control of council. I said the Labor Party - - -

10 Well, you just told us it was about control.---The Labor Party used to caucus and control every development that comes through. The Labor Party, since they lost that control then it became open to everybody to help.

I note the time, Commissioner.

THE COMMISSIONER: Thank you. We'll adjourn for morning tea and resume at about 10 to 12.00.

20 **SHORT ADJOURNMENT**

[11.28am]

THE COMMISSIONER: Now, Mr Buchanan, if you could just give me a minute with Mr Drewett.

MR DREWETT: Yes, thank you.

30 THE COMMISSIONER: I'm still trying to work out about times for tomorrow. You would anticipate that we would have to adjourn at 11.30, the appointment's at 12.30. If we then say give about half an hour for the specialist to be running late, that would take us through to about 1.30. Could Mr Hawatt be back in town by 2.30 or - - -

40 MR DREWETT: I wonder if that is a question that could also be included for Mr Hawatt to comment on because I'm sure he knows distances and times and things of that nature. From my point of view I see no difficulty with that, both maths make sense. That of course is based on the assumption that this particular specialist is different from all other specialists and he will actually be on time and I think it might be somewhat a wishful thought, having a roomful of lawyers and yourself, Commissioner, basing our day based on the fact that this particular specialist might not be, you know, falling behind in his appointments, but I personally have no difficulty with that and that maths makes sense to me, and if everyone else is willing to sort of buy into that.

THE COMMISSIONER: As I said, I haven't made up my mind, it was just I didn't really explore the return to the city with you first thing this morning.

MR DREWETT: Yes.

THE COMMISSIONER: All right. That's helpful.

MR DREWETT: But just on that, if you assume 12.30 appointment, half an hour late, 1 o'clock, I don't know how long these appointments go for, maybe Mr Hawatt might have a better idea than I do, but let's say 40 minutes for an appointment perhaps might be what one would envisage, takes us to - - -

10 THE COMMISSIONER: That would be about 1.40.

MR DREWETT: 1.40, return trip 2.40, coming up in the lift – but let's say 3 o'clock.

THE COMMISSIONER: Okay.

MR DREWETT: I think 3 o'clock would probably be a reasonable expectation that Mr Hawatt, if everything goes according to plan, will be able to get back here.

20

THE COMMISSIONER: All right. Let me just factor that into my decision. Thanks, Mr Drewett.

MR DREWETT: Thank you.

THE COMMISSIONER: Mr Buchanan.

MR BUCHANAN: Thank you, Commissioner. If I could please return shortly to the series of text messages, Mr Hawatt, which I showed you before that you received and were sent on 20 September, 2014. This is in Exhibit 245. Can you assist us as to why no other councillor was invited to attend this meeting?---I don't recall what the meeting was all about.

30

Well, can I help you there. You can see that clearly there are concerns. Your concern was about the RMS.---Yeah.

40

And we know, because the evidence is before us, volume 11, page 154, that the Residential Development Strategy that was the subject of resolution by council, I think you were involved in getting it passed in 2013, October 2013, went to public exhibition and submissions were received in respect of it. And in particular a submission was received from the RMS. And the officer's report to the meeting of council on 2 October, 2014, which considered the Residential Development Strategy planning proposal after it had come back from planning, from public exhibition, provides quite a good deal of detail about the RMS submission, most of which is adverse to any progress on the planning proposal. So do you remember the planning proposal, the Residential Development Strategy planning proposal?---Yes, I do remember that one. It was the first, because we had to get rid of all our

LEPs into one and there were certain instructions from the State Planning that all councils in New South Wales should have one LEP, not, not two or more.

And related to that process a whole series of submissions had been received from various people as to what should be done with the planning controls for various sites - - -?---Correct.

10 - - - in the local government area, and the approach council took was to devise a Residential Development Strategy, it asked a consultant to look at the submissions and that report was then considered by the officers, and the officers provided a report to council and then council made some changes and then there was a planning proposal. This is in October 2013.---Yep.

20 That went to public exhibition, came back to the meeting of council on 2 October, 2014 with some concerns reported as having been received from the Roads and Maritime Services, such as that the cumulative impacts of the further development on the classified road network have not been adequately considered, particularly for the sites fronting Canterbury Road. And the submission of the RMS repeats specific comments regarding the Canterbury Road sites. So do you think it's possible, given that that was reported to council in October – 2 October, 2014 – and the meeting that you called on Saturday 20 September, 2014 might have been about the submission from the RMS as you'd been led to understand it ran?---No, I don't think so.

30 Why not?---Because I recall the RMS at that time forced council to do their own road study report and we had to hire – I remember Jim Montague was quite upset over it because it's going to cost council, they were forcing council to spend a lot of money to do that report along Canterbury Road and - - -

That occurred after October 2014, occurred after the meeting of council? ---No, that was, that was part of that submission and then all developments along Canterbury Road had to stop until the report was done and the RMS, they come back and said we were happy with the, with the, what council's doing but we need these laneways.

40 I can assure you, Mr Hawatt, just accept it from me, the evidence before the Commission shows that that occurred after the meeting of council of 2 October, 2014. It occurred in respect of the planning proposal as revised by council at its meeting on 2 October, 2014. I'm talking about before that meeting when this submission had been received from the RMS and it would have been, you would have become aware of it, I would suggest, around the period of 20 September, 2014.---Look, the only thing I remember is what I just told you. I remember the RMS forced council to, to do a study. Now, I don't remember the dates and the times.

2015.---2015. And I also recall that there was no, we couldn't assess any developments along Canterbury Road until we got that report, I remember that and the other thing I remember is the RMS sending a letter saying that they wanted laneways. That's the only thing - - -

Why did you not invite other councillors to attend this meeting?---Again, I'll, I'll have to repeat what I just said, is I can't recall the reason behind this meeting even though I mentioned RMS.

10 No, sorry, why – just thinking back as best you can, having regard to the fact that it was about what the RMS was saying about development generally, having regard to the fact that it's shortly before council comes to consider the planning proposal at it comes back from public exhibition, having regards to the fact that you wanted to have a meeting with Mr Montague and you invited Azzi and Khouri to that meeting. My question is why, as you sit there now, can you assist us, why did you not invite any other councillor?---Again, I, I, the reason Azzi and, and Khouri was invited and Mr Montague could have been related to, to their complaints or concern. I don't know, I can't recall.

20

Was it because you and Mr Azzi were controlling, to the extent that you could, what occurred in relation to the business of council relating to assessment and planning?---No, we don't control anyone. We don't assess or control anyone. We don't assess - - -

Now, Mr Khouri, you knew, lobbied on behalf go Mr Demian in respect of his developments in council?---As I said before, Mr Demian did his own, most of his own work. Mr Khouri might have lobbied but he didn't sort of follow it like Mr Demian did.

30

You understood Mr Khouri's interests in September, 2014, to include the interests of Mr Demian in relation to his development projects in council? ---Look, I, I don't, I don't, I don't think Mr Demian would wanted [sic] Mr Khouri to be involved in any of his developments.

That's not the question I asked.---So I mean, that's, that's all I can recall.

40 You do know, though, that Mr Demian had development projects along Canterbury Road at this time, the time you were sending out this text message, these text messages?---Yeah.

The reason that you wanted Mr Khouri to attend was because of the interest that he had in developments along Canterbury Road, namely Mr Demian's interests?---No, that's, that's incorrect because Mr Demian, as I said, he did his own work. He didn't rely on Mr Khouri.

Can you give us any other possible explanation as to why you would have wanted Mr Khouri to attend this meeting?---As I said, he could have put a

complaint about something in regards to Canterbury Road, in regard to RMS.

But you're speculating, aren't you? You can't give us - - -?---Yes, I am.

You can't actually give us an - - -?---Because I don't remember.

- - - alternate explanation?---I don't recall.

10 But what we know is, because it's in the evidence in front of us, volume 11,
page 154, is that the RMS submission in relation to the RDS planning
proposal was to the effect that the cumulative impacts of the further
development on the classified road network had not been adequately
considered particularly for the sites fronting Canterbury Road. It went on to
refer again, this is the officer's report summarising the RMS concerns, a
focus of their concerns was the traffic impact of the loosening of planning
controls and the increase of lot yields on the sites the subject of the
Residential Development Strategy planning proposal that had been out on
public exhibition. We know that. We can see that. And so logically,
20 knowing Mr Khouri's interest in advancing his client's interest and knowing
that Mr Demian had substantial interest in development sites along
Canterbury Road, the reason that you wanted Mr Khouri there was because
you wanted to make sure that Mr Demian's interests were adequately
protected and it looked as if his interests were going to be adversely
impacted.---That's absolutely rubbish.

Why?---Because Mr Demian made his own contact with the RMS and RMS
makes their own decision. We can't override them and force them or
change, get them to change whatever they want. Whatever they ask for they
got and whatever we did in regards to laneways is just to, to try and help
30 them ease the, the traffic impact along Canterbury Road. So it doesn't make
sense what you're saying I'm afraid.

Going back to Mr Assad Faker. You became friends with him, did you?
---No. We didn't socialise, no, just - - -

What was the nature of your relationship with him?---He calls me for any
assistance that he has, any problems he has or issues.

40 And what did he want assistance with?---I told you. The first time I met
him he had issues with the, the roof on his building that he finished and - - -

Anything else?---And then he started regarding Homer Street.

What did he start regarding Homer Street?---Well, he wanted to put, he's a
developer. He bought the site there. He wants to put some development
and he started seeking assistance.

And what was the assistance he sought?---To support his development.

To loosen the planning controls to allow him to build something bigger than the planning controls on the site would allow?---This particular site, I'm not sure whether you've been out there or not, is located next to the river. It's on a main road opposite a stone wall and has no impact whatsoever on the residents except for the development next door, and what the council suggested, and I suggested that as well, is to make it the same as next door.

10 And what was the nature of your contacts with Mr Faker? I mean, how did you contact each other?---He called me. He calls me and we meet up and, and he tells me his issues and we follow it through. But he's never finished his, it's never completed. His site is never, is never have been completed.

Where did you meet with him?---He used to come to my office most of the time.

In Lakemba?---Lakemba, yeah.

20 Any other venue for a meeting that you had with Mr Faker?---Look, it's mainly in my office in Lakemba, it's - - -

No coffee shop?---I might have. I can't recall.

Mr Jimmy Maroun, you knew Mr Maroun in 2014-16, didn't you?---Yeah, he used to ring me all the time, yeah.

30 And what did he ring you about?---Oh, he had a lot of issues as well, he had issues with the council staff who were giving him trouble, hard times.

He was a developer?---He, he was a developer, yeah.

He was trying to get a development up on the car wash site on the eastern side of the Harrison's site?---No, before that he had other developments, he had some duplexes he was building in Earlwood.

Yes.---And he was getting, he was having problems with the staff.

40 Yes. And then after that were there any contacts - - -?---And then, and then after that he, I think I - - -

- - - that you had with Mr Maroun about the car wash site?---Well, I was told from the owner of the car wash that he bought it.

Yes. My question is, did you have any contacts with Jimmy Maroun - - -? ---Yeah, we had, he used to call me all the time. Sometimes we used to socialise.

And did you become friends with him?---On a, not, again we don't sort of go out as families and all that, but yeah, we used to drop in at his house and ah, have a coffee and drink and a, and a whinge.

About?---Oh, whinge about all the delays and delays and delays and it's just the guy wants assurance. The reason he calls me is to get assurance that everything is okay, basically that's it.

10 Did you meet him at any place apart from his house?---Oh, the gym, I think ah, I think we used to meet him at the gym in Earlwood and he also had a gym in his, at his place as well.

Anywhere else that you met him?---(No Audible Reply)

Any other venue?---Could be the club, the Bulldogs Leagues Club. I'm not sure. Can't remember.

A local hotel?---A local hotel, rarely, no, I don't think so.

20 Earlwood?---I don't think so. I can't remember that.

And when did you first come across Marwan Chanine?---Oh, I think I met him once, we were having, he had some issues in council and he was meeting with the staff and the GM and he asked me if I can attend.

You didn't meet him outside of council, that is to say outside of council business in the first instance?---No, that's when I first met him, on that, after that, no.

30 And what was the nature of that business?---Oh, I'm just trying to remember which development he had. He had some, can't remember, honest, I can't remember which development. No, no, don't recall.

How many developments did you have contact with Mr Chanine in relation to?---I don't know when he was, it was, Campsie's probably the one that, the one in ah, Campsie, the one he had, that's probably the one he was, he called me about.

40 On Canterbury Road?---No, no, in Campsie. This is next to the, not, not far from the railway station, Campsie railway.

Not on Canterbury Road?---Not on Canterbury Road, no. Oh, he might have called me for Canterbury Road but there's nothing that we could have done with it.

Did you develop a friendship with Marwan Chanine?---When you say a friendship, yeah, we had a good, we used to meet sometimes, have coffee,

but it's always been based on some issues that he had or some things that he needed help, assistance with.

So you were trying to provide him with assistance in his business?---What do you mean, in his business? Council, council business.

You would try to provide him with assistance in relation to his business, namely development projects at council?---Just like everybody else who calls me, I provide assistance to them. It's the same thing.

10

Did you socialise together?---When you say socialise, like what, having coffee together? Yeah, we had coffee together.

Did you do anything apart from having coffee together?---Like what?

THE COMMISSIONER: Mr Hawatt, please.---I don't understand what the question is.

MR BUCHANAN: Well, you're the person who had the relationship with him.---I didn't have a relationship with him as such. It's just an understanding.

20

Well, that's why we need you to flesh it out for us. Where else did you meet with him apart from having coffee with him?---Probably Pierre, Pierre Azzi's house.

Yes. Can you remember that?---Yeah, I can remember that, yeah.

And was that, did that involve hospitality being provided by Pierre?
---Correct, yeah.

30

Where else did you meet with Marwan Chanine?---At council.

Yes. Where else?---Could be the club, the Bulldogs Leagues Club.

Where else?---I don't remember. That's the ones I remember now.

You socialised with him, didn't you?---Oh, I've done that with everybody, not just him.

40

And when you socialised with him, did you go to venues apart from clubs?
---I don't, I don't recall, no.

Did you go to dinner with him?---Again, I don't recall.

Did you go to a nightclub with him?---No, I don't recall, I, no.

Did you declare the relationships you had with Mr Demian, Mr Khouri, Mr Faker, Mr Maroun or Mr Marwan Chanine when their matters came before Council?---I mean, in, in what sense? I mean, sorry, when their, the matter came up? If there was an interest, I would declare interest if there was an interest.

And did you declare an interest in any of Mr Demian's projects that came before council?---No, why should I?

10 Did you declare an interest in any project of Mr Faker that came before council?---No, why should I?

Did you declare in interest in any project of Mr Maroun's that came before council?---No, why should I?

Did you declare an interest in any project of Marwan Chanine that came before council?---No.

20 Did you develop a relationship with Ziad Chanine, Marwan's brother?
---Just like any other normal person that I deal with in council.

But you had dealings with Marwan Chanine in relation to his development business.---What do you mean development business? I don't understand, I don't understand your question.

30 Well, he had development projects, he was going to derive an income from developing those sites and selling sites?---Yes, I help people who need assistance. I don't ask him what money they're going to make or, or how much they're going to earn or, it's not, it's not my business. I just go and assist them.

But you knew it would be his business?---But it's everyone's business. Every person I have helped has a business. I mean, it's like, there's no difference with anyone else I've helped for the last 20 years.

Did Ziad Chanine approach you in relation to any development project that you understood he was working on or that Marwan was working on?
---Maybe but again, seeking help.

40 When you say maybe, I wonder if you could just think about it carefully for a moment. Did you have any contact with Ziad Chanine about any development project in which, as you understood it, he was involved or Marwan Chanine was involved?---That I, I made, if, if they called me, then I assisted.

So we take your answer to that question is yes, I did.---I did if they called me, yes. I can't remember them calling me them calling me but yes, if they call me, yes.

Did you declare an interest by way of your relationship with any of those four developers – we’ll call the Chanine brothers one developer if we can for this purpose – when raising their matters with Jim Montague?---I don’t see any reason why I should declare any interest because - - -

Does that mean you didn’t?---I haven’t, of course not. Why should I?

10 And did you declare your relationship with any of those four developers when raising their matters with Spiro Stavis?---No.

Marcelo Occhiuzzi was the director of city planning at Canterbury from 2010 to November, 2014. Could you please describe to us your relationship with him in that time?---It’s the same relationship I had with Spiro Stavis. We have a mutual communications regarding issues, follow-ups. I used to send him a lot of emails and he used to assist as much as he can. We had some, some other issues that we didn’t see eye to eye with but generally, most of the time, he was a helpful and supportive person.

20 Did Spiro Stavis at Pierre Azzi’s house?---Look, I don’t recall. It might, it might have been once when, it might have been once.

And was that occasion when there were other people there or when he was by himself?---No, other people, no, no, other people were there, like - - -

And what was the occasion if other people were there?---Look, might have been some, I think Jim Montague might have been there, I can’t recall exactly.

30 Was it a social occasion or was it just simply a business meeting?---No, no. I think it was a social.

So was there ever any meeting that you had with Mr Stavis at Mr Azzi’s house about his job or about the position of director of city planning?---No.

You’re quite sure of that?---Of course.

40 Why do you say of course?---Because we’ve never discussed his job, except the time when we employed him. He has his own, he makes his own judgement and he was doing a good job so why should we judge him on that?

Did you have any meeting with Spiro Stavis at Pierre Azzi’s house in the time when he was a candidate - - -?---No.

- - - for the position but before he had been appointed?---No. I never knew him.

Well, you told us, though, that you did come to know him at a meeting that took place at Marrickville.---Correct. That's the day before his interview.

Right. So did you have a meeting with him after that and before he was appointed?---No, because there was a lot of issues with that one, no. Oh, he might have called me every, oh, he might have called regarding the problem he had with council and the, the publicity that was going on and I was stressed out like everybody else, there was a time when everybody was confused, didn't know what was going on in regards to his appointment and the sacking.

But you're talking about after 14 December when Mr Montague apparently indicated he intended to not honour his offer of employment to Mr Stavis, aren't you?---Correct, yeah.

But before 8 December when the offer of employment was provided to Mr Stavis by Mr Montague, so between 16 November, 2016 when you met him at Marrickville, and – 2014 – so between 16 November, 2014 when you met him at Marrickville and 8 December, 2014 when Mr Montague gave Mr Stavis an offer of employment, did you meet with him?---No.

You're quite sure of that?---If I remember, I mean, like, I'm not 100 per cent but I don't recall meeting him except that time before, the day before, and during the incident when he was employed and, and his contract was withdrawn.

Would you have had any reason to meet with him between the time of the interview panel, so we'll take it now to the next day, 17 November, 2014 - - -?---No.

- - - and the day he was offered the job?---No.

No reason to?---No.

Did you meet Mr Occhiuzzi at Pierre's house?---I don't recall.

Well, you never did, did you?---I don't recall.

Are you saying you might have met him there?---This is, this is Marcelo we're talking about?

Yes.---I don't remember meeting him at Azzi's house, I can't recall.

Would it be fair to say that you thought that Mr Occhiuzzi was not good at providing solutions for developers' issues with development controls? ---He was controlled by his, by his strategic staff, I have to say.

THE COMMISSIONER: So does that mean the answer's no?---No.

MR BUCHANAN: He was not good at providing solutions to developments?---That's right.

And so did that make you disappointed in him?---Look, he's, he, he did his job but unfortunately he's just very rigid and people that calls you, and we, and I represent people, I don't represent the council or the council staff, people call you and complain about he's rigid, how rigid he is, especially where we had one incident when it was like a - - -

10

Well, can I just stop you there, please, and I'll ask you about an incident in a moment. From your description it's clear that you did not have the same relationship with Mr Occhiuzzi as you had with Mr Stavis, did you?---I sent and followed through with any person who called me for assistant [sic] the same way as Spiro.

No, I'm not asking you that. I'm not asking you about what you did. I'm asking you about your description of the nature of your relationship with Marcelo Occhiuzzi and you said it was the same as you had had with Stavis. ---Well, look, as far as communications, but he, he, Mr Stavis was a solution-driven director.

20

So does that mean that you had a different relationship with Mr Stavis from the one that you'd had with Mr Occhiuzzi?---I mean, when you say different? I don't understand when you're talking about different.

Well, I'm trying to understand what your answer means.---My answer means there's two different directors with two different types of opinions.

30

And does that mean that you had a different relationship with one as against the other?---We had the same type of relationship. One was a solution-driven person who was the, who I was giving results from people who called me that are happy with him. They were very happy with him.

So therefore you were happy with him?---Of course.

Mr Stavis this is.---Of course, because he's my, the calls I used to get and all the complaints he made my life much more easier than when - - -

40

Whereas on the other hand you were not happy with the outcomes of approaches that developers made or you made on their behalf to Mr Occhiuzzi. Is that fair to say?---Well, when I was getting a lot of complaints that they weren't getting results.

And so therefore necessarily when you told us a moment ago that the relationship you had with Mr Occhiuzzi was the same as you had with Mr Stavis, that was a lie, wasn't it?---No. On a professional basis it's exactly the same. One is, that's not a lie. I mean, don't twist the truth I'm

afraid. Now, Mr, Mr, both directors we treated exactly the same way. If you look at my response emails, which you probably have, you'll see my emails are exactly the same as for both, seeking assistance and help on behalf of representing people.

Mr Occhiuzzi resigned on 7 November, 2014. Do you have any understanding as to why he resigned?---That's between him and the general manager.

10 THE COMMISSIONER: No, you're not being asked that. You're being asked whether you knew why he resigned.---I didn't know why he resigned. I didn't ask him to - - -

Right, that's the answer. Good.---Yeah, sorry. Yeah.

MR BUCHANAN: You had no idea why he resigned?---No.

But you were pleased when he did?---Of course I was.

20 Did you have any conversation - - -?---Even the mayor was against him I have to say.

Did you have any conversation with Mr Montague about Mr Occhiuzzi's performance as director of planning?---I wish to complain. When people ring us and complain we pass on the complaint.

And you passed it on to Mr Montague?---Yes.

30 And is it fair to say that you and Pierre Azzi, to your knowledge, pressured for Mr Occhiuzzi to go?---No.

Did you pressure Mr Montague for Mr Occhiuzzi to go?---No.

Did you indicate to Mr Montague that things would go badly unless Mr Occhiuzzi's performance changed in any way?---Mr Montague controls the staff, not us, and I think when he received, and I remember Mr Montague telling me, he said when the mayor told him he wasn't happy with him that's when he made his mind up.

40 Would it be fair to say that as you understand it you in conjunction with Mr Azzi made life so difficult for Mr Occhiuzzi as director of planning that he was forced to resign?---That's incorrect.

What's incorrect about it?---Well, it's up to him. I mean, if everybody, I work under pressure, you work under pressure, everybody works under pressure. If I can't perform well, it's up to me I can't perform. I mean, that's the way it is. Everybody works under pressure.

And what do you mean by that? Do you mean to say that - - -?---People complain.

- - - Mr Occhiuzzi was to your knowledge pressured?---No.

Was placed under pressure?---Pressure in regards to performance.

Yes.---As he was falling behind a lot of the developments.

- 10 Yes.---He was taking too much time and we had, as far as council was concerned there was a time period that he had to have those developments or DA applications cleared and I think he was falling behind on that from my understanding.

So there was no pressure that you understood Mr Occhiuzzi to be under because he wasn't providing solutions for developers?---Well, I never pressured him or, to do anything. As far as we're concerned if he, if he did the wrong thing I'll make a complaint against him. That's it.

- 20 You don't think a complaint against a member of senior staff at council would have been likely to result in pressure on that person?---No. It's his job. That's his job. He's a director and he's got to perform.

How often did you complain to Mr Montague about Mr Occhiuzzi?---No, not that often, not that often.

How often?---Like, maybe once or twice, three times. That's it.

- 30 Is there anything in particular, any particular project or site?---Well, there's one, there's one in, in, in, Oatley, I've forgotten what suburb, Oatley Street in Kingsgrove, regarding a person who, he had a concrete, small concrete slab in front of his, front of his yard and we, I called, what's the name, Marcelo to, to go out and have a look and try to sort out the, the problem, and I was out there onsite with Marcelo and, and Pierre with the owner and saying, look, this is a concrete slab because there were services under the ground. The guy could not put the centre, he needs to, because of the services and it was suggested, because he had to have a, a per cent of the area open space and deep soil and there were services all around, and it was suggested that they should put the concrete around the edge instead of the
40 centre, sorry, around, in the centre instead of the edge in order to alleviate this problem. Now, Marcelo even said, yeah, that's, that'll work, that's a good idea, and then his report says, no, he doesn't make recommendation for it. So he's not, like, he, that, that was an insult to myself and, and Pierre at the time because he actually agreed to it, the, it's only small, it's like a four square metre concrete slab and, and he said, yes, that will work, the solution will work but I can't make a recommendation to support it. I made a complaint to the GM on that one because it, it met the objectives. You've got to remember, the objectives come before the controls. If you can meet

the objective then it should be okay. The problem is, council staff use the controls to, to reject applications and make life difficult for people coming in for assistance and help.

What caused you to be on the site on this occasion in the first place?---The owner rang, rang, he called me and he called Pierre as well.

10 And what was the next thing that happened after the owner had contacted you and Pierre?---I, I called Marcelo to come for a, to, to ask him what the issues were, like I normally do, and he told me what the issues and then suggested maybe an onsite to try and resolve it and he came out and we met there and the decision was made.

Are you sure you didn't ask him to meet you at the site?---That's, I don't know, you'd have to check my text messages and emails to him.

20 No, it was a phone call.---Oh, phone call. I just can't recall but it was arranged that – we, we do this all the time. We meet onsite on many occasions, it's not unusual.

Who is we?---Council and the staff.

When you say council, this was two councillors.---Yeah, but sometime there's one councillor and a staff member. Sometimes it's more than one councillor. It depends how many, how many they call.

Why was, as you understood it, Councillor Azzi there?---Because he was called as well by the, by the owner.

30 And was any other councillor called?---I don't know, I don't know who else he called. But we acted on it.

Can you assist us now, looking back, with an explanation as to why you two got a call and went out to those meeting but no other councillor did?

---Because the guy is Lebanese and he's probably called us because we're Lebanese, it's simple as that.

40 Does it mean there were no other Lebanese councillors?---There might have been but he called us, he had, it's up to him. I mean, he called me, he called, he might have called someone else. I don't know, I didn't ask him.

Was Kingsgrove in your ward?---Yes, it was.

Now, when you were there on the site, Mr Occhiuzzi indicated that the concrete would need to be removed and the previously approved landscape planned incorporated, didn't he?---I think so, but the solution that we looked at, he said it'll work.

And you and Mr Azzi ridiculed Mr Occhiuzzi's position as he explained it to you onsite, didn't you?---No, we didn't.

You demanded that he agreed to a compromise on the spot?---No, we didn't. What I said - - -

Mr Occhiuzzi refused to agree to that and both and you Mr Azzi became increasingly agitated and aggressive towards him as a result, didn't you?
---No. I was upset with him when he said, yes, this, the solution, this will
10 work, the solution of moving, leaving the concrete in the middle and, and making more open space around the edges because of the services under the ground, but I'm not going to recommend it. I thought, come on, are you for real? Yes, I was upset over that.

You and - - -?---But I had every right to be upset over it.

You and Mr Azzi yelled at him.---Mr Azzi didn't yell at him, I don't know where that came from, never heard him yell.

20 You've never known Mr Azzi to yell at anyone?---I can't remember him yelling at him, especially in front of - - -

At anyone, ever?--- - - - an owner. He can yell at anybody else he like but not that time, never.

THE COMMISSIONER: No, you're not being asked that.---No, he didn't yell at him. I, I don't recall him yelling at him.

MR BUCHANAN: Mr Azzi had a temper, didn't he, that sometimes he
30 kept in check and - - -?---Sometimes he loses it.

- - - sometimes he didn't.---Correct, yes. That doesn't mean - - -

When he lost his temper he yelled at people and swore at them, didn't he?
---Sometimes he does, sometimes he doesn't, but on that particular occasion, no.

On this occasion you and Mr Azzi criticised Mr Occhiuzzi for not being flexible, didn't you?---I criticise him, yes, for not being flexible, correct.
40

And you told him, didn't you, that if he was unwilling to be flexible that you, the councillors, would approve the application anyway on the floor of council?---That's up the council, it's up to the council to make the decision, correct. And that's the democracy and I would support it.

Excuse me a moment. Now, we were talking about the Residential Development Strategy a little while ago. I just want to go back to that, if I can, please, and take you to Exhibit 52, volume 11, page 54. And I wonder

if we could provide Mr Hawatt with volume 11, please. It's a matter for you, Mr Hawatt, by the way as to whether you want to look at documents on the screen in front of you or the papers in front of you or whether you want to use a combination of the two.---I prefer the, I prefer the screen.

Whatever is easiest for you.---Yeah, the screen would be, yeah.

The screen is good enough?---Yeah.

10 Thank you. So you recall that there was a consultant's report on the submissions that had been received during the LEP process for changes to planning controls at various locations in - - -?---Yes, I think so, yeah.

And the front page of the report is page 54. If we can go, please, to page 106, this is the first page of the report to the meeting of council on 31 October, 2013, about the Residential Development Strategy, and you can see the summary in front of you?---Yeah.

20 And it recommended that the Residential Development Strategy be endorsed, subject to amendments contained in the report and changes to the zoning and planning controls be implemented as proposed. That's the last dot point on that page.---Yeah.

Do you see that?---Yeah.

What happened in relation to Mr Occhiuzzi's recommendation?---(No Audible Reply)

30 Just going off your memory.---I think we supported his recommendations.

If I can take you, please, to page 89. Perhaps page 88 in the first instance, please. Thank you. Can you see that the bottom there, there's an email from Mr Occhiuzzi to you of 23 October, 2013?---Yeah.

And - - -?---Copied, copied to me, yeah, yeah.

40 And Mr Occhiuzzi says, "Please see attached some commentary in response to the proposed amendments you tabled yesterday. I have particular concerns regarding the increased heights proposed in items 1 and 3. I have no problems in principle with increasing development potential, but I think this needs to be explored carefully with full knowledge and awareness of potential impacts and consequence. The approach that you are exploring does not provide enough certainty about what these might be across the board." And then he indicated that he is prepared to meet you and Councillor Azzi. You see that?---Yeah.

And if I can take you then to page 89, and this page and the next page and the page after are all comments by Mr Occhiuzzi in response to what Mr

Occhiuzzi describes as your motion, your proposed motion. And in bold was set out your proposed motion, and then he had against the word "comment" his views that he expressed. Do you see that? You see that he said, "I do not support this change"?---Are we talking about, this is 1, is it, dot point 3.1?

Yes, correct.---I thought that was his change. He's the one who came up with that consolidating B5 and B6.

10 Well, what the evidence before the Commission shows is that whilst some loosening of planning controls was agreed to by Mr Occhiuzzi, the wholesale loosening – which you, for example, proposed on page 89 at item 1 – was opposed. And do you see there that you talked about consolidating two zones into one and then said with a maximum building height of 25 metres applying?---Yeah.

That was something that Mr Occhiuzzi did not support. He said, "I do not support this change."---But he supported the B5/B6 (not transcribable)

20 I'm sorry, he supported the - - -?---The B5/B6.

Yes. Can I go over to page 90. You proposed, item 3, "Delete floor space ratio controls and increase height to 25 metres, applying to," and then you identified four particular zones that allowed development of three storeys and over where the site area exceeded, and then you nominated a particular area and a particular site frontage.---Yeah.

And can you see that Mr Occhiuzzi strongly recommended against that change?---Yeah.

30 And can you see that in both cases Mr Occhiuzzi provided reasons?---Yeah.

Provided detailed reasons. And then he went on to disagree with other changes that you proposed for the reasons he set outlined in the RDS document itself. That is to say, the consultants' report entitled Canterbury Residential Development Strategy, page 54 of volume 11. Can you see that?---Yeah.

40 And the same again on page 91.---Yeah.

So there were quite a number of changes that you proposed, and whilst we don't know whether it was all of them, and it probably was not, Mr Occhiuzzi selected out some of the changes you proposed, identified them in this attachment to that email, and gave reasons as to why he disagreed. Can you see that?---Yeah.

So what happened next? What happened about that?---We had a meeting with all the councillors and I was selected as one of the councillors to move

these motions, and I moved them and the rest of the councillors, bar one, supported it.

And how was it that you were selected?---Because I was the person who understood a bit of planning and I, I said I'll do it, no problems. It's like any one of the councillors could move but the rest going to support it, so it was a council decision. Even the mayor, the mayor supported it.

10 What we've seen, though, is that you were the one who were moving these changes.---I was selected by the group to, to move it. Someone had to move it.

Which group?---The council. Everyone. All the councillors bar one.

At any particular event or meeting?---That we had a meeting in the mayor's office.

In the mayor's office?---Yeah.

20 And how soon before Mr Occhiuzzi sent to you his comments on your proposed changes was it that that meeting occurred in the mayor's office? ---I, I don't, I'm not sure whether that meeting was to, in regards to what, what the council was going to do or whether it was before. I just can't recall. But all I know is I moved it on behalf of the council and it had the support of the majority bar one. So it's not my planning, I just moved it, and if you look at council minutes it depends on, everybody moves. It doesn't mean it's their, it's their, it's their motion, they just move it.

30 Mr Hawatt, there's a body of evidence that suggests that's not the case here, that you were the moving party for these - - -?---I said I'll do it.

You were the moving party for these changes to the Residential Development Strategy recommendations.---So are you saying the rest of the councillors who supported it is, they're all stupid?

They did what they were told.---Do as they're told. Come on, come on. Nine, nine, bar one everybody support it and you're blaming me. Come on. This is, this is not acceptable.

40 So if we go then to page 92, please, in volume 11, your email to Mr Montague and Mr Occhiuzzi of 30 October. It's the day before the meeting of council to consider the Residential Development Strategy and you attached a document entitled LEPamendments2.doc, and if we go over the page to page 93 to 94 there's a series of changes that are proposed to the recommendation made by Mr Occhiuzzi in respect of the Residential Development Strategy. Can you see those?---Yeah, that's correct. This is all supported by even - - -

Who typed these?---(not transcribable)

Where was this document created?---I think this would have come from Marcelo.

No, this was from you. Are you sure you didn't create this?---No, Marcelo would have gave it to me.

10 No. You need to understand these are changes that you're proposing to what he proposed in his officer's report in relation to the Residential Development Strategy. He had certain recommendations but you proposed that those recommendations be changed.---If I proposed - - -

If I can take you to page 119, just in case you're having a genuine lapse of memory here, page 119, over the page 120, can you see that there's a series of recommendations made by Mr Occhiuzzi in his report to the meeting of council of 31 October, 2013?---Yep.

20 And they're item numbered 3 and 3.1, 3.2, 3.3, going over the page, 3.4 to 3.11. Can you see that?---Yep.

So if we go then to page 93, you're proposing, this what you passed on to the general manager and Mr Occhiuzzi, changes to those items in his report, those recommendations he was making.

30 THE COMMISSIONER: Can't you see, if you look at – this is easy, page 120. Can you see 3.8, this is Mr Occhiuzzi, "Increase the maximum building height from 18 metres to 21 metres." If we can then jump back to page 93. Point 2, "Amend 3.8 to read 24.5 instead of 21 metres." So it's your proposal that 3.8, instead of referring to 21 metres, now refers to 24.5 metres.---These are planning proposals that were going to Gateway to make the decisions. This not, these are not binging by this council.

MR BUCHANAN: No, no, no, no, sorry. We understand that. Mr Hawatt, my question to you is, you were driving these changes to Mr Occhiuzzi's recommendations in relation to the Residential Development Strategy, weren't you?---I wasn't driving it, I was asked to, to move those motions.

40 And is it the case that you personally prepared these changes that we can see the first page of it on page 93 of volume 11?---With the support of the council.

THE COMMISSIONER: No, but you prepared it, you prepared this document?---I can't, I can't remember preparing all this, but look, a lot of the, the motions that we move are looked at by the staff and especially the director to make sure it's legal, but sometimes we move things that are not correct, so the director makes those decisions, he gives it to us on a piece of paper saying this is how we want it.

MR BUCHANAN: And indeed although your document at page 93 is after it, Mr Occhiuzzi at page 90 set out why he disagreed with changes that you proposed.---The council, the council is the decision-makers, not the, Mr Occhiuzzi can make all the recommendations, at the end of the day council is the body that makes the final decision. Nine, only one councillor out of the 15, sorry, the 10, only one out of 10, so nine councillors supported it and I was the councillor that moved it at the time, so that's a legal, legal motion.

10 Why did you prepare these changes?---I don't remember why they were there, somebody might have, because we were discussing it with the mayor and all the other councillors, each person might have put their input in, residents might have called. I remember one resident who called me who lived in Croydon Street coming back and I said, and I went out to have a look at their site, she said she wants, if we can, you know, assist her she, 'cause she's next to a block of units and I went out with Pierre to have a look and we saw the lady who owned the property and council, I said to, to Marcelo, I said, "Hold on, this is a block of units next door, there's I think a laneway in between and there's where the houses start." I said, "That
20 should be, naturally it should be up to that laneway." And we made recommendation to change that. Sometimes we would visit at sites.

And can I ask you to have a look at page 93 and 94. Can you identify this particular site on pages 93 and 94?---It's in Croydon Street, sorry, not Croydon Street, in ah - - -

So is that on page 94 at dot point 3.17, "Rezone land at 5-9 Croydon Street and 53-37?"--- Not Croydon Street, sorry, not Croydon it's, it's in Punchbowl, it's in (not transcribable) Punchbowl.

30 Well, there's 1499 Canterbury Road, Punchbowl?---Victoria, sorry, Victoria.

That's item 5.---No, no, 7, Victoria Street.

Victoria Street, Punchbowl?---Yeah, Victoria Street, Punchbowl, yeah. That's the one.

40 That was to rezone, nothing to do with a laneway.---No, there was to rezone the site, because Marcelo was against it and when, when we went out to the onsite and have a look we saw there's no reason why it shouldn't be rezoned to like, next, like, the block of units next door.

So you collected, did you, the complaints of various landholders as to the loosening of planning controls that they were seeking and put them into one document with a view to having those - - -?---If I felt - - -

- - - complaints implemented?---If I felt the um, personally when I visited the site and if I felt that was a reasonable change then I have no problems with it personally.

And you would be persuaded by the landholder that the change needed to be made?---I'm not persuaded by anyone. I'm persuaded by what I believe is right, and if I think it's correct then I do it. I have my right to do it.

10 But where did you get the information from to work out whether it was right or not?---All you've got to do is go out there and have a look and you see a block of units next door and you've got a house and then you've got a gap in between the other houses, then naturally you say well, the zoning should stop there, not, not next to the block of units.

I note the time, Commissioner.---It's the last house.

THE COMMISSIONER: Right. We'll take the luncheon adjournment and resume at 2.00pm.

20

LUNCHEON ADJOURNMENT

[12.59pm]