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INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC
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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 12 DECEMBER, 2018

AT 2.00PM

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MR BUCHANAN: Mr Stavis – I do apologise – Mr Montague, thinking again if you wouldn't mind, please, of the meeting at the Canterbury Leagues Club held on the afternoon, late in the afternoon of 5 March, 2015, shortly after Mr Stavis started work, how would you respond to the proposition that Mr Stavis attended the meeting because you asked him to? ---It's possible, but I don't recall doing that.

10

And why is it possible?---Well, because he was a director of city planning and clearly the councillors, as it turned out, wanted to outline their vision for the future of the city I guess.

You hadn't been told that in advance by anyone?---No, no, no. Not that I recall.

So how did you find out about it?---Not that I recall. Well, Michael Hawatt never, never stopped talking about it, about what his plans for the future were.

20

No, I'm sorry, my mistake. How did you find out about the meeting being scheduled?---Oh. Well, I must have heard it from him or from Azzi or, must have, because they, they wanted the meeting.

And when you say they, embracing Mr Azzi, I just want to check on that if you don't mind.---No, not at all.

You don't have a recollection of Mr Azzi - - -?---No.

30

- - - contacting you about it?---No.

Mr Azzi was at the meeting, though?---Yes, I'm pretty certain of that.

Mr Stavis has told the Commission that another reason that he attended the meeting was because you were attending with him.---Well, I don't know. I mean maybe I told him I was going at some stage. I can't recall all the circumstances now, I'm sorry.

40

You can't recall how many councillors were there?---No, I can't precisely, but if it's the meeting I'm thinking of, and we've already decided there were at least two meetings at the leagues club, if there was a third and this was it, or it was the second one of the three, I do recall a meeting where Councillor Kebbe and Councillor Adler were also in attendance, but I can't recall which meeting it was. This is the most likely one I guess.

Do you recall a meeting at which Councillor Vasiliades was present in addition to Councillor Hawatt and Councillor Azzi, as well as Councillor

Nam?---No, but they could have been there, that's what I say, my memory's completely blank. I, I, I, I knew or I would reasonably expect Councillor Hawatt and Azzi to be there, I don't recall Nam and, and Vasiliades, but it's possible that they were there as well. That was the group.

You didn't take any step to ensure that all councillors were aware that the meeting was scheduled?---No, not that I recall.

10 Do you think it was your duty to do so?---Not necessarily. I mean it's an informal meeting, it's on my time outside of council work hours, I didn't see a problem with it. I knew they wouldn't come anyway.

Despite understanding that it was to relate to council business, namely planning issues?---Well, I'm not sure it was clear exactly what items that Councillor Hawatt was going to touch on. We found, we know later because of that email that set out what he wanted to discuss, and I'm sure that was the piece of paper that he produced earlier at some stage throughout this whole ordeal. I think he had a bit of paper with handwritten notes on it.

20 So, is it possible you attended the meeting not knowing what it was going to be about?---Don't know that I, I, I – no, that's possible, yes, that I didn't know, but it's more likely I had an inkling that he wanted to talk, he wanted to talk to Spiro about what his expectations were, just in broad terms. I don't recall it being as detailed as that, that other piece of paper outlines.

THE COMMISSIONER: But you got copied into the email chain, which included Mr Hawatt setting out in detail the issues he wanted to discuss at that meeting.---Yeah, that's what I mean, Commissioner. Before that I didn't know until that email arrived, but as to how it got there and who
30 initiated it, I'm pretty certain it was them.

MR BUCHANAN: Having seen the email, as you would have, sometime after 12.25pm on 5 March, 2015 – I'm looking at page 137 in volume 5 – did you take any step to ensure that all councillors would be aware that this was going to happen?---No. Not that I recall.

The public weren't invited, as far as you were aware, to this meeting?---No, no.

40 They didn't attend?---No. No, not that I'm aware of.

Was there a table of planning proposals and LEP priorities or planning instrument priorities that you saw at the meeting?---Only what's in that email, and I, and I think Councillor Hawatt was reading off this list, the handwritten list that he had, which replicated what was in that email more or less, you know, maybe a few items out of it, a few deleted, I don't know.

You didn't respond to the email of 5 March at 12.25pm by asking Councillor Hawatt to put those matters on the agenda of the City Development Committee?---No.

And to have a publicised meeting to which all councillors could contribute and the public could attend?---I don't recall doing that.

Do you think that would have been the proper approach to have taken?
---Well, there's various ways that items can get on a business paper for the council to consider. Councillor Hawatt was entitled to submit that for
10 inclusion in the business paper in a, in a recognised form. That, that, that was normal procedure, then we'd discuss it with the mayor, for example.

But what this was doing was excluding members of council as you understood to.---Yeah. But my take on it is, it was just, it was just Michael's grab bag of things that he felt were, needed attention and he's been suggesting that for a long time before Mr Stavis came on the scene.

But in all likelihood you asked Spiro Stavis to attend because you'd been
20 asked by Michael Hawatt to get him to attend.---Possibly. I don't recall it happening though.

And so this was really being held for the benefit of Mr Stavis, wasn't it?
---Well, there's no doubt that Councillor Hawatt, as I said earlier, wanted to brief Stavis on what his expectations were for the area, for the, for the city.

And if, as far as you were concerned, they were Councillor Hawatt's expectations, then they were the expectations of the council?---No, not at all, because he had to, he would have to get the council to endorse that
30 through the normal process of bringing something up at a meeting or whatever. You can't, you can't just say I want to do this and that, and, and I would expect, however, that if he had done that the other six were in support of him, but I can't, I, I, I can't be certain of that either.

There were mechanisms, weren't there, that Canterbury Council employed from time to time to allow for less formal discussions of policy issues, such as council workshops?---Yes.

Did you have strategic planning meetings?---Yes.
40

Why didn't you cause a strategic planning meeting or a councillor workshop to be convened and scheduled in order to allow these matters to be ventilated?---Because at that stage it was, it was Hawatt's show, not mine, and, and if, if there'd been any decision, not that there were decisions, but had, had he, did he – sorry. Had he wanted to pursue it, he would have had to, had to submit something by way of a formal motion to the council, discuss it with the mayor or, or his colleagues and get something up to the first available meeting. That's how it works.

So what is the point, in that case, of the meeting - - -?---Well, I think - - -
- - - being held and you attending it?---I just, I thought he just wanted to
beat his chest a bit.

Did anyone chair or conduct the meeting?---No. It was just a roundtable.

10 Did anyone record what was happening at the meeting?---I didn't. I don't
know if anybody else did.

Do you think a record should have been kept of what was - - -?---No, not
necessarily. It was - - -

- - - said at the meeting?---No, it was outside of hours. It wasn't on council
premises. It was just his view of the world, and that view at times was a bit
distorted.

20 And did anyone disagree with what Mr Hawatt proposed during the
meeting?---Oh, I don't think so. I don't recall, but I don't think so.

30 Did you take him up on anything that he raised?---No, I, look, I, I, I said I'm
not a planner. I generally agreed with the view that the council area was a
bit degraded, that it possibly needed some more appropriate development
and economic activity in certain pockets of the council area. I always
agreed with that and I said that earlier here. But as to the specifics of it, no,
I, I didn't have a particular view. I, I didn't take a great deal of interest in
the planning process per se. I, I relied on the, the professional planning staff
to do that. But the councillors are quite entitled to bring forward any ideas
they like for consideration.

And how did Mr Stavis respond at that meeting to what Mr Hawatt said?---I
think he was agreeable. I mean, he, he, he would be. I mean, he's not going
to stand up in a meeting like that and tell Michael he's, he's dreaming.

Did Mr Azzi say anything?---Not much that I recall.

40 Was a report made of the fact that the meeting had occurred to anyone?
---No, I don't, I don't believe so.

And in particular no report was made to the full council that such a meeting
had occurred?---Not that I recall, no.

Had such a meeting occurred with Marcelo Occhiuzzi?---Strategic meetings
were held with Marcelo present, but nothing like this, no. But these were
unique circumstances.

Well, my question is, as you understand it, why had such a meeting not occurred with Mr Occhiuzzi but did occur with Mr Stavis?---I've got no idea. I don't know whether he - - -

But you said these are unique circumstances.---They are.

What is it you have in mind there?---Well, the whole circumstance surrounding, surrounding Stavis's appointment.

- 10 But how did that justify the occurrence of this meeting?---Well, I don't think it has to. I mean, the two things were connected, no doubt, but as I said, Michael Hawatt took a great deal of interest in planning issues from the minute he got on the council way back. And there's nothing wrong with that. He's a councillor. He's there to represent the community and the, and the stakeholders, and that's what he tried to do in his own inimitable style.

Linda Eisler would have expressed views about planning from time to time. ---Yes, certainly.

- 20 Would you have taken her along to a meeting of Ms Eisler and likeminded people about what development should occur or not occur, as the case may be, in the local government area?---If I, if I convened, if I convened a meeting of that, if I convened it or the mayor did, every councillor would have been invited. But I didn't convene this meeting, they did. They were on a roll.

And you went along with it?---I was there.

- 30 You went along with it, though, didn't you?---I was there. I was there.

Yes. You went along with the fact that this meeting occurred because they were on a roll.---I was there.

THE COMMISSIONER: Sorry, what do you mean they were on a roll? ---Well, they had their tail up now. They'd achieved what they wanted in appointing Stavis. Michael saw it as a green light to get the things that he wanted to be reviewed reviewed through a process, I suppose, over time in the rest of the, the remainder of the term. You know, they had, what, three years or something ahead of them, two years, perhaps.

- 40 MR BUCHANAN: This meeting involved not so much a councillor making inquiries of a director, this was canvassing subjects that were expected to be in the director of planning's work plan, wasn't it?---Possibly. Possibly.

Well, certainly all of the matters that are in that email that Mr Hawatt sent to Spiro that he copied to you were planning directors' work plan issues, weren't they?---They were certainly things that came within the purview of the planning division, yes. But not only Spiro, it would have included the

strategic planner, the managers, the manager of development assessment, a whole range of people, not just Spiro.

And this event was canvassing matters expected to be in the director of planning's work plan in a way which avoided the scrutiny of other councillors.---Not at all.

The councillors not present.---Not at all. And there had been no work plan developed at that stage.

10

But it did happen in the absence of, even as far as you know, the knowledge of other councillors, let alone their presence?---Well, the other councillors, as far as I know, that is in the group, would have known, but I'm pretty certain that Councillor Eisler and Councillor Paschalidis-Chilas and the mayor would have been excluded from that consideration because the relationship was so poor.

20

And was that the reason as far as you were concerned why you took no step to ensure that they were aware that the meeting was taking place in advance?---No, no, not at all.

And of course the way this meeting occurred and the lack of a record being kept of it ensured that what occurred at the meeting avoided public scrutiny. That's correct, isn't it?---No, I don't think so. I mean people are entitled to meet and discuss things, surely.

That doesn't address the question of whether the public are aware - - -?
---Well - - -

30

- - - that such a meeting occurs and such discussions take place on the part of a select group of councillors, the general manager and the director of planning.---I would submit, Mr Buchanan, that those sorts of meetings are held right across New South Wales in various councils in different forums and in different manners. The only thing that matters in the end is what goes to council and what formal resolutions are made. They can - - -

How many other such meetings had you been present at?---We used - - -

40

That is to say involving a select number of councillors convened by one or two of those councillors in the absence of public scrutiny, in the absence of the other councillors knowing, but taking your director, the relevant director along. How many others occurred?---We used to have site inspections, and often when you get to a site inspection there would be a number of councillors who, they were all advised that the site inspection was on, and they'd show up if they wished. They didn't have to. It wasn't compulsory.

And that's the difference, isn't it?---Well, yes.

They were all aware that it was going on.---Yes.

THE COMMISSIONER: And the site inspection would have been either documented or would have been generated through the appropriate divisions or sections of council, wouldn't it?---Yes, that's true, but in this case, these meetings, this particular meeting anyway, in the circumstances, even though they might seem a bit unusual, was designed to impress on, on Spiro Stavis what was expected of him as far as the group was concerned. Now - - -

10 And the group controlled council.---Yes. Absolutely. Seven beats three every time.

MR BUCHANAN: How did participating in this meeting on your part fall within your lawful functions as general manager?---This was on my time, I hasten to add.

So you didn't regard yourself as performing the role of general manager?
---I was more, I was more an observer at that meeting. Look, I really wasn't interested in it. I'd heard it all before from Michael, ad nauseam, for years.
20 It didn't, nothing he said surprised me, his behaviour didn't surprise me.

I just repeat my question. How did you participating in this meeting fall within any of your lawful functions?---I can't answer that. That's a hypothetical.

No, it's not.---Yes, it is.

You knew what your lawful functions were, didn't you?---Yes, of course, they're fairly - - -
30

Which of your functions were being discharged by you attending this meeting?---They're fairly broad and I think open to interpretation. I didn't see any harm in attending that meeting if it was going to assist the council in feeling comfortable with the person they had appointed as manager of planning, and anything that was considered would result in a report to the relevant committee or to the council at a subsequent time. Nothing, there was nothing there that committed anybody to anything.

40 And if I could just take you to the code of conduct, volume 2, page 61.

THE COMMISSIONER: Thank you.

MR BUCHANAN: And do you see there it's headed Part 6, Relationship Between Council Officials?---Yes.

And then there are Obligations on Councillors and Administrators as a subheading. Do you see that?---Yeah. Administrators isn't referring to my, my role.

Well, I don't think so. It's referring to an administrator who's appointed to act in lieu of councillor acting as the collegiate council.---Yeah, I, I just wanted to clarify that.

But you had a role in enforcing compliance with the code of conduct on the part of councillors, didn't you?---Yes, yes.

10 And otherwise ensuring compliance on the part of councillors, didn't you?
---To, to the best of my ability, yes.

Now, can I ask you to just go back to page 60, if we could, the preceding page, and do you see here that in part 5, I'll tell you that it appears in part 5 under the heading Personal Benefit, there's the subheading of Improper and Undue Influence, and clause 5.9 reads, "You must not use your position to influence other council officials in the performance of their public or professional duties to obtain a private benefit for yourself or for somebody else. A councillor will not be in breach of this clause where they seek to influence other council officials through the appropriate exercise of their representative functions." So you see that there?---Ah hmm.
20

Then can I just take you then to page 61, and do you see that clause 6.2 reads, "Councillor or administrators must not (a) direct council staff", and then it gives an exception that is not applicable here. "(b) in any public or private forum, direct or influence or attempt to direct or influence any other member of staff of the council in the exercise of the functions of the member." Do you see that?---Yep, yeah.

30 "(c) contact a member of the staff of council on council-related business, unless in accordance with the policy and procedures governing the interaction of councillors and council staff that have been authorised by the council and the general manager."---Yes.

And there was no policy or procedure under which this meeting on 5 March, 2015, was convened or conducted, was there?---Well, if you look at item (c), subclause (c), I said earlier, much earlier in evidence, that we had a policy, if you like, a convention that staff could approach – senior staff, that is, directors and some of the line managers – could approach councillors if they wished. I thought that was an effective way to get business done, for clarification. Not everything had to go through my office, that'd be ridiculous, so I encouraged the senior staff to, to deal with the councillors but in, in the end, anything that a councillor requested would have to be reflected in a resolution of the council at some future time and I thought that satisfied the policy.
40

And then can I take you please to page 74 and can you see that that is, Part 10, Appendices to the Code of Conduct, this is?---Yes.

The first of which is, "Procedure interaction between council officials," and then if you turn the page to page 75, the heading is Procedure Interaction Between Council Officials. Can I take you to clause 7, "Councillors must not attempt to direct staff as to the performance of their work." Do you see that?---Yes.

The clauses that I have taken you to were breached by what occurred in the meeting on 5 March, weren't they?---I don't believe so.

- 10 This was in a private forum, directing or influencing or attempting to direct or influence both you and the director of planning in the exercise of your functions.---No.

And you were colluding in that.---No.

- 20 Why is that not so?---I've said it was an informal meeting. All that Councillor Hawatt wanted to do was express his opinions about where the council should be headed. If that was to be translated into a policy of the council or an action of the council, it would have to be a report to the council for a resolution of the council, not me, and given the background of this, and he, he just wanted to make, get his message across, as I've said before. Politically, the council was dysfunctional and it still was at this point, so he, he was just taking the initiative as he saw it to, to get his message across.

- 30 And in what way was – in the first week of March after the reconciliation between you and Councillors Azzi and Hawatt, and after Mr Stavits had started work – the council still dysfunctional?---Well, there was still a certain, a certain amount of animosity between the two councillors in particular and the mayor. That, that hadn't improved and probably wouldn't have. There, there were other, other relationships amongst the councillors that weren't satisfactory, and that in itself meant that the council couldn't function the way it should have been and it was up until September 2012.

- 40 And did that justify, in your opinion, the meeting of 5 March at the leagues club being convened and being conducted in the way it was?---I don't know what you mean being conducted in the way it was. A group of people sat down around a table with a coffee and had a bit of a chin wag. That's all it was. It was nothing more, nothing less. And it meant nothing to me because I knew that Councillor Hawatt had been banging on about these things for years and nothing had changed in my mind. But if it meant that he'd feel better about everything, no problem, but it still had to go back to council.

Well, was it necessarily so that it had to go back to council? If I can just ask you, volume 5, page 137. If you could see the dot points that are at the second half of that page and going over to page 138, it was the work of the director of planning which was being directed here, was it not?---I don't

think so. I mean, as I said, this is just a grab bag of things that Councillor Hawatt had a particular interest in. And some of them, if you look at “review the LEP to include transition zones”, that can’t be done without a resolution of council.

What about “Resolution of council regarding Gateway Determination, October 2014. The feedback I am getting from the Department of Planning is that Planning is blocking changes that are being made by council,” et cetera, et cetera. “This is unacceptable and must be resolved quickly.”

10 ---Well, that’s his opinion, and if he wanted to advance that, he could have stood on his, on his hind legs in the council meeting during question time and said to the council, “This is not satisfactory. Mr General Manager, I want you to do something about it.” And if the council resolved that that would happen and then I’d put a rocket up the planning staff, that’s exactly what I would have done.

But this was in fact instead occurring - - -?---No.

20 - - - at a meeting of a few councillors, in the absence of the other councillors, in the absence of public notice, at a meeting at a leagues club. ---No. No. And that presumes that I, that I would have followed up on that without any further instruction from council. I assure you I wouldn’t have. I took all this with a grain of salt because I’ve heard it ad nauseam for years. Didn’t interest me.

30 However, is it fair to say that Mr Stavis might not have had your experience with the ventilation by Mr Hawatt of his agendas in relation to planning, and that for him this would have been useful news and that, in the circumstances of his appointment, material he should take on board in doing his job?---No doubt about it, he would have taken on board, and I think he should have, but how that, how that evolved into any action on his part or the council is another matter entirely, and it wouldn’t have happened overnight. It wouldn’t have happened the next day. Spiro had to be careful too because his own staff in various roles, like the manager of development assessment, knows what he’s about. He’s a very, it was a very experienced person. So, you know, it’s just not that simple. Like, a word from me doesn’t mean to say that the world’s going to stop spinning.

40 I’ll change the topic now, if I can.---Certainly.

Thank you, Mr Montague. Excuse me a moment. I’m going to Exhibit 232, which is a bundle of papers relating to a DA for premises at ■■■ Ridgewell Street, Roselands.---Yes, yes.

If I take you to – I withdraw that. What I propose to do is summarise for you what I’m going to suggest that the evidence shows as just being events in relation to that DA, but could you just sing out at any stage if a particular matter is something that you’d like to see the document for.---Of course.

So 18 September, 2014 – this is volume 31, page 1 – a DA was lodged for the construction of a new residential dual-occupancy development.---One thing, can I just make a comment there?

Yes.---I wouldn't have known that.

I appreciate that.---The DAs don't come across my desk.

10 I appreciate that.---Right.

The property was immediately to [REDACTED] ---?

---Yes.

- - - which was owned by Mr Stavis and his wife.---Yes.

20 Volume 31, page 4. On 21 October, 2014, under cover of an email dated 24 October, 2014, Mr Stavis lodged an objection to the DA. This is volume 31, pages 32 to 55.---Yes.

On 19 March, 2015, and we might take you to this, please, volume 31, page 103, you were sent an email by Mr Gouvatsos.---Yes.

And I don't know if you've had a chance to have a look at these documents?
---No, it's the first time. I don't recall, I don't recall seeing this.

30 Okay. This is an email, it's a conversation, so actually a quarter of the way down is the initiating email by Mr Gouvatsos, 19 March at 11.05. He tells you, "We have a DA for a dual-occupancy at the subject site."---Yep.

Which is [REDACTED] Ridgewell Street. "Which adjoins Spiro Stavis's home at [REDACTED]"---Yes.

40 "Spiro lodged an objection in October 2014 to a number of the design elements of the proposal that would affect his privacy. The matters raised have been taken into account as part of the assessment, and the planner, Diep Hang, H-a-n-g, has now completed her report recommending approval with a number of conditions requiring changes to the design to address Spiro's privacy concerns. The issue we now have is that Spiro is no longer just a neighbour lodging an objection, but an employee and more importantly our director. We therefore feel that we cannot now determine the DA under delegation as there could be a perception that we may have been influenced by his position. I suggest that we refer the DA to an independent planner to assess and report the matter to IHAP and then CDC for determination. This will be the most transparent way in processing this application which avoids any perception of collusion." And you responded on 23 March, 2015 at 12.21pm at the top of that page. "I agree."---Yes.

Do you remember this now?---Oh, vaguely, but, but I need to emphasise that I agree entirely with what, having read it again, I agree entirely with what Mr Gouvatsos said.

Did you have any contact with Mr Gouvatsos before you received that email from him about this?---Not that I recall. No. I knew nothing about Ridgewell until these proceedings. Nothing about it at all. Didn't even know the application had been lodged.

10

Okay. But does that mean that you didn't remember until this inquiry the - - -?---No, it means I - - -

- - - email you had sent?---Well, no, of course, that's, well, that's a reasonable assumption, but I didn't, it wasn't in my mind, this particular application. It wouldn't - - -

20

Okay. But do you understand what we're trying to do is find out whether you can shed any light on aspects of it for us?---No, I can't. No, I can't, because Mr Stavis didn't take me into his confidence. The first I would have known about a possible breach, and I think there is a clear breach here, it was inappropriate, I agreed entirely with George, whether I spoke to him privately I don't know, but I agree entirely with what he was proposing, it was the first I knew about it.

Thank you.---And at that stage of course when it was lodged, Spiro wasn't an employee. Things changed after he was appointed as director, and he should have behaved accordingly.

30

Now, consequent upon that decision of yours, because that was your decision - - -?---What, that I agree?

Yes, well, sorry, when you tell a - sorry, when a manager puts a proposal to you as to how a matter should be handled that requires a decision by you, rather than his director, and you say, "I agree," are you not giving a direction to the effect that the proposal that's been made to you by the manager be implemented?---I would have expected George to proceed as he outlined in that email to me, exactly.

40

But you were giving him a direction?---Yes, of course, which I'm entitled to do.

Consequent upon that decision, did you expect that Mr Stavis would be involved in any aspect of the assessment or determination of the DA for [REDACTED] Ridgewell Street?---No. He should have, he should have kept an arm's length to it, and furthermore, if it was reported to council, if it needed to be reported to council or committee, he should have declared an interest.

Well, that's the next question. Did Mr Stavis provide you with a declaration of pecuniary interest in the DA?---I don't believe so. That's why I knew nothing about, about the Ridgewell Street application. I was completely in the dark.

10 Did you have any contact with Mr Stavis about the DA?---No. As I said, Mr Buchanan, until this came up through these hearings and on reading the transcripts et cetera, that was the first I knew there was an issue with Ridgewell. I didn't realise the proximity between this address, Ridgewell, and his home.

Is it possible that Mr Stavis did have contact with you and you've forgotten?---No, no. I don't think so. Anything's possible but I don't think so.

I understand. So can I ask you to make this assumption, that on 8 October, 2015, after negotiations between Mr Stavis and the owner of [REDACTED] Ridgewell Street, Mr Stavis withdrew the objection which he and his wife had lodged. ---Well, if you say so. I mean, I - - -

20

That's what I'm just asking you to assume. You had no knowledge that Mr Stavis subsequently became involved in the processing of the DA?---I wouldn't have approved of that had he, had I known all the circumstances.

And you didn't know that Mr Stavis subsequently caused the external assessor's report to be altered in ways that favoured his interests?---No. Certainly not.

30 If you had known that he had involved himself in the processing of the DA, let alone altering the external assessor's report, what would you have done? ---Well, we were in uncharted waters, but I certainly would suggest that that would warrant disciplinary action against Mr Stavis.

And if it requires you to state the obvious, can you state the obvious, why? ---Because he's, because what he's done is, is inappropriate. It's, it is a conflict of interest. He shouldn't have involved himself in the, in the assessment of the application. He should have kept well away from it and he should have declared an interest, certainly at the council meeting, if it even went to council. I don't know what the fate of the application was.

40 But what he did was wrong, simple and, you know, cut and dry.

And this is notwithstanding the fact that partway through the processing of the DA he withdrew his objection?---I didn't know that either, but George would have known, and George I expected, given that email, would have acted on my "I agree" to do what he proposed to do, and if that meant there was going to be a conflict between Stavis and Gouvatsos, I would have backed George every time.

That's all in relation to [REDACTED] Ridgewell Street. I'd like to ask you some questions now, if I can, about 998 Punchbowl Road. This is on the corner of Canterbury Road and it's an old service station.---Yes, at Punchbowl Road, Canterbury Road.

10 And the first thing I'd like to – and it was a Demian proposal, a Demian project, I should say. Was this a – sorry, I should give you a little bit more information. It was a planning proposal, that is to say a submission by Mr Demian that the planning controls in the LEP should be varied in respect of that site, which would allow a more intense development at the site. It wasn't a DA.---I'm not, no, no, but, yeah, of course, but I'm not familiar with the specifics of the proposal.

That's why I'm giving you that information. Did you take an interest in that particular proposal?---Yes. Yes.

20 And why did you take an interest in it?---It's an icon site. It's right on the corner of the City of Canterbury, where it abuts Bankstown City Council. It's, it's an old, rundown service station. Like I said before of some of the properties on Canterbury Road, it was crying out for some form of improvement and I was interested to see that those sorts of sensitive developments or redevelopments of sites took place. The other thing is that Mr Demian brought it to my attention. He contacted me I think through Khouri to say, "Jim, I put this thing in," and I said, "Fine, you can go for your life. It'll be dealt with in accordance with our normal practices." That, that was the extent of my interest.

30 Did you have meetings with Mr Demian about the planning proposal?---I had one meeting that I can recall, in the function room on the second floor of the admin building, at which Spiro was present, and that was the occasion when Mr, or somebody produced a handwritten thing, a plan it looked like, with a whole lot of squiggle on it. I remember that vividly because I couldn't understand it.

You weren't in the habit of causing records to be kept of meetings that took place in your presence involving a development proponent?---I've said that before, I didn't. That wasn't my practice. But I'm pretty sure Spiro took some notes.

40 Why are you pretty sure?---Because he had a pen in his hand and he was writing stuff down as Charlie was speaking.

And does that mean that you always ensured that there was a staff member present to take notes?---Not always, but in most cases with DAs or planning proposals, there was a member of the planning staff there. In fact invariably there was a member of the planning staff there where there were issues of substance. And what, as I understand it, what Mr Demian was seeking to do

was increase the height of the building, right? That's, that's the full extent of my knowledge.

Can I ask you to respond to this proposition, that failing to ensure that a full record is kept of such meetings risks a proponent being improperly preferred or their interests being improperly preferred over the public interest, and that being obscured or opaque to the rest of the world.---No, I don't accept that, because as I said, it would, it would ultimately result in a report to the council or committee or the IHAP, one or the other, and all of the details
10 would be spelled out there. Now, obviously - - -

But the question might be, how come the report is making the recommendation it does, and if there is no record kept of the meetings that occurred with the proponent that lead up to the report, then it's not going to be possible to find out very easily the contribution which those meetings made to the way the recommendations are slanted.---No, because the director or the planning officer who prepares the report would, would give full details in the report of matters of substance that led to their particular recommendation. Now, every day people come to the counter and there are,
20 and there are discussions between counter staff, duty planners and the applicant about all sorts of things. I'm sure notes aren't kept about that either. But in the end the safeguard is, has to be that there's a report to council which justifies why an officer has recommended in a particular way, whether it's for approval or rejection or approval with conditions.

Do you think, in retrospect, that records, good filed records, should have been kept of meetings with development proponents in which you took part?---I, look, it wouldn't hurt but I'm not certain what value they'd be, what value they'd be when it came down to the actual assessment, because
30 at this point it was a proposal, there was nothing in it, there was no diagrams that were drawn to scale or anything, and he would then have to lodge a formal proposal, which would go through the normal development assessment, sorry, the normal process of evaluation, taking into account all of the planning issues involved, which I don't know about. It's not my, my go. The planning staff would have to assess it based on the controls, on what the council's objectives are for that site. Neighbouring council might have an opinion about it because it's right on the border with Bankstown. I don't know. But all that should be contained in the report, and if the council isn't happy with the quality of the report, they're entitled to ask for
40 additional information, any information they want, or defer it or get the applicant in to discuss it, go on a site inspection, whatever it takes.

Well, let's turn then to the meeting which you seem to have a memory of that occurred at council chambers between you and Mr Demian, it involved also Mr Stavis - - -?---Yes.

- - - a piece of paper - - -?---Yes.

- - - and Councillor Hawatt and Councillor Azzi.---Not the meeting in the function room didn't, that I recall. Not the meeting in the conference room didn't, as I recall.

What about a meeting in your office?---There was another meeting involving Demian, and that was the meeting where I told him to back off. He was, he was, he was certainly trying to heavy Spiro, and Spiro backed up and I supported Spiro, I said, "Look, you don't come in here telling us how to do our job."

10

I'm talking about a meeting that involved those two councillors, yourself, Mr Demian and Mr Stavis.---Yeah, look, I - - -

In your office.---Yeah, it's possible but I don't recall it, and if it did happen it was along the lines that I've just suggested. The councillors, I can't know how many times I've got to repeat it, the, the two councillors involved here, they don't have the authority to direct me or Spiro Stavis to do anything, and in the end it's got to be a council decision, and that means a full thorough report on the, on the elements of the proposal.

20

So why would you allow Councillors Azzi and Hawatt to be present at a meeting with a proponent and your director?---They just strolled in, they just strolled in. For all I know Spiro told them that Demian was coming in. They just strolled in. That's what they had a habit of doing. The layout of that building - - -

And you allowed that to occur?---Oh, look, I didn't see any harm in it, they're entitled to have their opinion, but I, I always relied on the fact that regardless of what they said it still had to go back to council.

30

Why did you understand that Councillor Azzi and Councillor Hawatt were present?---I have no idea. I don't know that they had an interest in that site or, or at that stage any interest in Mr Demian for that matter.

But it would seem they did.---Well, they could have, you mean - - -

Well, why would they have spent their time in your office with them - - -?
---Well - - -

40

- - - with Demian and yourself and the director otherwise?---Well, I think maybe with respect that question needs to be directed to both of them when, when they're giving evidence.

It didn't occur to you - - -?---No.

- - - why are these men here?---Look, Mr Buchanan, I didn't see any harm in including them in discussion about a matter that eventually would come to council so that they've got a clearer picture of what it's all about, and

keep in mind, as I said, that the, that Azzi and Hawatt, Hawatt in particular, was directing traffic, the other five councillors in his group, if he said jump, they'd say how high. Right. Now, that's how it was. Whether I approved of it or not, that's how they were operating, and if I'd arced up and said, "Look, get out of my office, I'm not talking to you," they'd have just found another way through, except there would be a lot more conflict with me over it, and I didn't see any harm in them having an input because in the end it's up to the development assessment staff to assess the proposal without fear or favour, and they're removed from direct contact with the councillors, which is a good thing, put the damn thing up and make clear
10 recommendation. If the councillors are not happy, defer it, reject it, approve it with conditions, whatever you like.

Did you have any understanding though of why those two councillors were present with Mr Demian's proposal - - -?---No.

- - - as against some other proponent's?---I didn't, no, I didn't, but Demian is a fairly prominent developer in that part of Sydney, not just in Canterbury but in other municipalities or cities around the joint, and he's got interests in
20 Parramatta, Bankstown, all over, and that's fine, that's his business, he's a developer, but in the end to get something built, and I don't think it ever has been built, but to get something built on that corner, which is a very prominent corner, it's a gateway to the City of Canterbury, on Canterbury Road, to get that done would require the approval of the council or some other body, whether it went to the IHAP or it went to the State Regional Planning Panel or whether it went to the, it went even higher than that.

Assuming this meeting took place in late October, early November 2015, I'd ask you to make that assumption, had you see Mr Demian at Councillor
30 Azzi's house before that meeting took place?---That's possible, it was one occasion that he, he showed up at, at Pierre's place, but that was later. I, I'm talking now '15, maybe late '14, '15, '16. That, that's, that was because the amalgamations were, were expected and we, as you know, was said before, people were strategising about how they might deal with that, how the two councils might come together. There was one meeting, as you know, where there were other people present, externals, including members of parliament and people from Bankstown were there. That meeting's well known, but prior to that, no. I, I didn't visit Azzi's home at all. He only got on the council in, I think he only got on the council in 2012.

40 So given that understanding of a relationship of some sort between Azzi and Demian, it couldn't have come to you as too much of a surprise to see Mr Azzi walk into the room.---No, no. It didn't surprise me. I mean, that's how they operate, they just wander in, they've got an opinion, they're entitled to their opinion, free speech and all that, but in the end, it could go over my head or it could, it could register. They might have a, a valid point but it would be reflected in a detailed report to council.

Do you have a memory of what the purpose of that meeting was?---I think it was to talk about the specifics of the application in relation to height and setbacks in particular. Setbacks were an issue because of the nature of Canterbury Road. I think there was an RMS proposal to widen Canterbury Road at that point. There had to be at least a six-metre setback, and on the other side, on the eastern side, there was an old caryard I think, there was an issue about the setback on that site but I think - - -

10 But why should this involve you?---Well, it doesn't, but I was just there so I just listened politely.

But you weren't just there. It was your office. These people came to your office.---Yeah, but that's okay, that's okay. They like to see me. That makes them feel good. They get to see the general manager.

THE COMMISSIONER: Oh - - -?---No, it's true. It's true.

20 MR BUCHANAN: Time and money is a aphorism that's often quoted by businesspeople and Mr Demian was a businessperson, wasn't he?---Yes. A very astute one.

And he was there for a reason, wasn't he, to advance his interests?---Yes.

And he had a reason for wanting you to be there. Surely you understand that?---Well, he, he didn't articulate that reason to me.

30 What was your understanding of why he wanted to have the meeting in your presence?---Well, I suppose to give it a bit more gravitas. I, look, I don't know what makes, what makes these people tick.

Did he want to, as you understood it, make sure that Stavis did what Demian wanted him to do?---No, no because the two of them, the two of them had a disagreement, I told you that already, in, in a previous meeting, and Spiro - - -

Subsequent meeting, actually.---Well, whenever. Spiro wasn't a great, a, a, a great admirer or confidant or whatever you want to call it of, of Charlie Demian. They didn't get on. Charlie, Charlie was fairly aggressive.

40 And so is that the reason that, indeed, that is the explanation as to why, as you understood it, Mr Demian wanted to have the meetings in your presence, to ensure that Stavis did what he, Demian, wanted Stavis to do? ---No. I, I, I don't accept that.

MR ANDRONOS: Objection. Objection. I thought we were talking about one meeting and that question referred to meetings, plural. I'm not sure if that was a slip of the tongue but, but I thought we were talking about a single meeting, rather than meetings, plural.

MR BUCHANAN: I'm happy to make it meeting, singular, but I actually do mean meetings, plural.

MR ANDRONOS: Well, then perhaps we'll establish meetings took place before we go into that.

MR BUCHANAN: Well, can I tell you that Exhibit 85 is a collection of what we've been calling calendar entries for meetings at Canterbury Council on the material time, and there are quite a number of meetings scheduled involving you and Mr Demian between 15 May, 2013 and 2 March, 2016, eight meetings that were scheduled in this document. So you'd accept that – I said 15 May, 2013 and 2 March, 2016. Yes.---Well, I, look, I don't know those meetings ever took place. I can only remember one, possibly two meetings with Charlie Demian, and both times Spiro was present. I don't know about the councillors. One was in my office, yes, that was when Spiro and Demian clashed, and I had to mediate that, and the second one was in the reading room on the first floor.

20 And the question that I'm asking is, what was your understanding as to why they were being held in your presence?---Well, I've already answered that.

MR ANDRONOS: Objection. You can't do it this way. You can't take a whole lot of meetings over a period of a number of years and ask a single question as to why all those meetings were held in the presence of this witness.

THE COMMISSIONER: Well, no, my understanding is Mr Buchanan – you objected to the plural meetings.

30 MR ANDRONOS: Yes.

THE COMMISSIONER: It was the Exhibit 85, the witness was referred to Exhibit 85 and then said he remembers two meetings with Mr Demian. My understanding is Mr Buchanan then asked him about those two meetings, his view as to why they were being held in his presence, is that correct, Mr Buchanan?

MR BUCHANAN: Yes. Yes, Commissioner.

40 MR ANDRONOS: Well, there may well be a different answer in respect of each of the meetings. That's my concern.

THE COMMISSIONER: Well, let's start it generally. You can recall two meetings with Mr Demian?---Yes, yes.

You've heard Mr Buchanan's question. Can you answer collectively for those two meetings that you can recall why they were going to be conducted

or undertaken in your presence?---Can you please repeat the question, Mr Buchanan?

MR BUCHANAN: Yes, sure. Why, as you understood it, were those meetings with Mr Demian being held in your presence?---Because I think he requested me to be there.

10 Why, as you understood it, did he want you to be there?---Well, maybe to impress on Spiro that, you know, that he had access to, to me and that that somehow or other meant his application was more likely to succeed, which is wrong, absolutely wrong, and he was told that.

20 When was he told that and by whom?---Well, well, I told him once. But all the time, every applicant, everyone that comes in, and I said right from the start of these proceedings my approach, and maybe it's a bit old-fashioned, but I actually believe that the council's there to provide a service to all stakeholders, which includes – whether we like it or not – property developers, mum-and-dad applicants, whoever they are, and if they wanted to see me about something I always had an open-door policy, and that included major proponents. But did that mean in some way or other they got beneficial service? No. Or, or, or preferential service? No.

And you reject the proposition that, as you understood, it was to make sure Stavis toed Demian's line?---Absolutely, absolutely reject that. I would expect the opposite, and that's why I defended him at the first meeting when, when Demian was quite offensive towards him.

Now, excuse me. A brief break, Commissioner, has been suggested.

30 THE COMMISSIONER: Yes. We'll just adjourn for about five minutes.

SHORT ADJOURNMENT

[3.03pm]

THE COMMISSIONER: Right.

40 MR BUCHANAN: If the witness could be shown volume 13, page 199, please. There's been evidence from both Mr Demian and from Mr Stavis which would allow the Commission to conclude that the piece of paper that you have mentioned is the document that is in front of you now. It has handwriting on it – sorry, I withdraw that. It is a plan, a copy of a plan, but it has handwriting on it, and it has in the bottom right-hand corner handwriting which reads, "FSR: 2.8." Do you see that?---Yes.

Did you understand what a floor space ratio was in 2015?---Oh, I have a, I have an understanding of it, yes.

And it related to the bulk that could be constructed on the site?---Well, it relates to the, yes, yeah, that's one way of putting it, yeah.

Now, the evidence is that various FSRs had been discussed or were the subject of submissions or were the subject of decisions by the various parties involved for this site, but if I can just tell you this, at the meeting of council on 31 October, 2013, which you've referred to a couple of times now, Mr Occhiuzzi's report in relation to the Residential Development Strategy was amended in relation to 998 Punchbowl Road to rezone to R4, to increase the FSR to 1.8:1, to change the height limit to 15 metres, and council resolved for a planning proposal to be prepared in respect of that. And then at the meeting of council held on 2 October, 2014, the Residential Development Strategy planning proposal was amended in relation to 998 Punchbowl Road to increase the maximum FSR to 2.2:1, and then the planning proposal for 998 was hived off from the omnibus planning proposal for the Residential Development Strategy for reasons that I can go into if you want to know, but that occurred, and it took on a life of its own as a freestanding planning proposal. Do you understand what I'm putting to you now?---I understand what you've said, yes.

20

The planning proposal was created and submitted to the department and the department wrote back seeking additional information to demonstrate, amongst other things, adequate justification for the 2.2:1 FSR sought. ---Right.

That happened before Mr Stavis started. That happened in February 2015. Mr Stavis started in March 2016.---That's right, that's right.

So council was, as it were, working away on the FSR that had been resolved upon of 2.2:1 and then on the – and Mr Stavis was working away on that. And then 26 October, 2015, a company associated with Mr Demian's development company, on behalf of Mr Demian's development company, made a submission to council seeking to increase the FSR in the planning proposal from 2.1:1 to 2.8:1. You understand that background?---(No Audible Reply)

And what I am suggesting to you is, the meeting which you have a recollection of occurred shortly after that submission had been made on Mr Demian's behalf to council to increase the FSR in council's planning proposal.---Possibly, yep.

40

Do you have a recollection, now that I've given you that background, that the meeting was to advance or progress Mr Demian's submission that although council had resolved upon 2.2, it should change that to his benefit to make it 2.8, and that was the context of this meeting?---Look, possibly, but all I can remember is that this document, I saw it, I didn't understand it and I don't now. He had that with him, or Spiro had it, somebody had it, and they were talking about FSR and setbacks, and I expected what would

happen after this when the meeting broke up, as I have said before, that Spiro would take all that information away, which the applicant is entirely entitled to submit, take it away, consider it in the context of all of the other controls that would need to be in place, in consideration to council's previous decisions, and come up with some sort of a recommendation to the, to the City Development Committee or the council. I don't know whether that ever happened.

10 But can you see now Mr Demian's position, that he needed to somehow persuade the people who made decisions at council to change the resolution of council, to change the planning proposal that had been prepared and submitted to the department to increase the FSR from 2.2 to 2.8? Do you understand that?---Yes. Of course I do.

And can you see in that circumstance there might have been some benefit to Mr Demian of him advocating for that change to you in the presence of Mr Hawatt and Mr Azzi?---Not really because they're the decision makers, not me. I can't, I can't influence the outcome.

20 Well, don't you think it might have been – I withdraw that. Mr Azzi and Mr Hawatt hardly said anything in that meeting, did they?---I can't recall what they said, if they said anything.

I want to suggest to you that in the meeting, there was no opposition to what Mr Demian was seeking that was evident from those two councillors?
---Well, I, I don't know, I don't know how you know that but if that's what happened, that's what happened

30 Well, because that's the evidence of Mr Stavis.---Oh, okay. Fair enough, yeah. Point taken.

And I've already put to you that you might have understood Mr Demian to be having meetings, plural, with you and Mr Stavis, as a way of, as it were, persuading Mr Stavis to do what Mr Demian wanted?---Yeah, but that's on a proviso that he, it was, he was being, he was capable of being influenced like that and I don't believe he was. He had his own mind and, as I said, there was a conflict between the two of them, quite a heated one, over this.

40 It wasn't over this.---No, this, but over similar proposals by Mr, Mr Demian.

We've got evidence from Mr Stavis that, speaking of that piece of paper that you can see on the screen now, you said to Mr Stavis, "Go away, have a look at it," or words to that effect.---Yeah, words to that effect, yeah.

Is that what you said?---Well, that's, that's the sort of thing I would have said or could have said, and, and I expected him to go away and work it out for himself. He's the planner, not me.

There's also evidence been given that, speaking of the piece of paper, you said to Stavis, "Look, we have to find a solution to this."---Again, that word solution, which is a word I don't use anymore because it's got a bad connotation. I've said repeatedly in this place I was about achieving good planning outcomes. I'm not a planner. I left that up to the planning staff. So I would have said to him, if I said that at all, go away, do something with it, but in the end – I don't know how many times I've got to say this – he would have to put something up to the development committee or the Independent Hearing and Assessment Panel, or perhaps now the Joint
10 Regional Planning Panel. I don't know who's calling the shots anymore. It's, you know, it's three years since I was involved. But he would have had to have put a report up and he would take into account all of the various competing interests and make a recommendation, which the council as a whole – including the non-aligned councillors, if I can put it that way – need to make a decision. Now, I don't believe for a second that they're going to be influenced by anything I say, and I wasn't in the habit of ringing councillors, lobbying on behalf of developers or anybody else for that matter unless there was a legal or a financial consideration to be taken into
20 account which is my responsibility, to guide the council in terms of legal, its legal ability to do anything. Now, Spiro was a highly paid senior officer, he had experience in planning, so did Marcelo Occhiuzzi, and what Spiro should have done with this – and I don't know what happened with it after that meeting or in the period that followed because of the turmoil around the amalgamation and everything else that came later – he should have applied himself to working with the proponent and to get a satisfactory outcome, not a solution necessarily, an outcome that addressed the principal planning controls. And if, if it didn't comply in terms of setbacks or height - - -

30 This was about changing the controls.---Yeah, but that's not an unusual request. That happens, I mean 4.6 is there for the same reason. It's not unreasonable for applicants to ask. They can ask what they like, doesn't mean to say they're going to get it.

In that case, why bother giving Mr Demian the time of day?---Because that was my practice. If anyone in the community wanted to talk to me about something, I would make myself available.

40 Is it possible that you indicated to Mr Stavis at that meeting that what Mr Demian was asking for should be implemented?---No, absolutely not. And if, and if that's, if that's Spiro's evidence, he's wrong.

Is it possible that you conducted yourself the way you did in that meeting because you felt you owed Charlie Demian a favour?---No, I didn't owe him anything.

Or a big favour?---No. I didn't owe him, I hardly knew the man until, until these events, until that application, that proposal came in.

You socialised with him at Mr Azzi's house.---Yes, at Mr, I was a guest there when Mr Azzi invited me and he also invited Demian. I didn't know he was going to be there.

And you had known Mr Demian for some years.---No, that's not right either. I only got to know Charlie Demian probably in the last five years.

Well, that's certainly some years, isn't it?---Yeah, but we're talking 2013 here. We're now in 2018.

10

No, we're talking 2015. We're talking late October, early November 2015. ---Yeah, but we're still in 2018, so take three years off that five. It's possible I knew him a couple of years before then, because he came to me once, I remember, about an application that he had in another council area and asked for my help, could I give him any advice that might assist him. So I, I met him then.

20

You said in that answer if I heard you correctly – and please tell me if I've got it wrong – “I didn't believe that they”, namely council, “would pay any attention to me on planning issues”?---Yeah. I didn't seek to influence them on planning issues.

30

But you did.---I didn't. I did not. If there was a political, sorry, if there was a financial issue or if there was a clear breach of the Act in some way or other and they were acting beyond power, yes, I would offer my advice normally through the mayor or by way of a memo, but that was in, that was in the days when the council was reasonably functional. But from 2012 on things changed, I admit that, but it didn't change my view that it was the governing body, the body politic that makes the decisions in relation to major policy issues and that includes major planning proposals.

But I'm just testing, if I may, your statement “I didn't believe they'd pay any attention to me on planning issues”.---They wouldn't.

40

Because I want to suggest that your own conduct indicates that you believed otherwise.---No, that's not true. I reject that entirely. They, they went to the director of city planning. That's why they fell out with Marcelo because Marcelo wouldn't toe the line, I suspect, and the previous planner who I knew very well, Robert Davidson, he had the same problem but they went to him. I encouraged councillors to go to the director who was in charge of that particular function, in this case planning. I did not inject myself into individual applications unless they rang me and asked for an opinion about something in terms of how to set out a motion or how to put it in writing to the council. I'd help them then, of course, as a scribe but nothing more.

Excuse me a moment. Did you speak to Mr Demian or did he speak to you when you were with him, you and he were both at Mr Azzi's house at the same time - - -?---Yeah, the Friday night I believe.

- - - about the 998 Punchbowl Road planning proposal?---Possibly came up in passing but I wasn't in the habit of discussing the details of applications with applicants in a social setting like that. I don't know if it was a Friday night, what date it was. If it was a Friday night and it happened later when the amalgamations were in the offing, yes, we would get together on, Friday night was the night that Councillor Azzi regularly asked people to come around, have a drink or a coffee. He was a very good host. I enjoyed those, those times but we didn't talk about specific applications.

10

Well, you know that Mr Stavis says that from time to time on Friday nights you rang him from Mr Azzi's house with a query about a specific application or project to seek information from him with a view to you using it at those functions.---No. There was one, one occasion I recall when that happened. It wasn't, it wasn't the 998. It was something else. I think it might have involved the Chanine brothers in South Parade or something like that and there was confusion at the time about what was happening. I said look, I'll tell you what I'll do. I'll give Spiro a ring and ask him. I don't know that I got through to him, I may have, but that was it and it wasn't a regular occurrence. I wasn't in the habit of disturbing him in his, in his private time at home about matters that really could wait until the next week. It wasn't life and death stuff. And I don't see any harm in that. I'm the general manager of one of the biggest councils in Sydney. I'm trying to get the job done for people.

20

But what it suggests is that you were from time to time discussing council business and with applicants and specifically their applications - - ----Look, I just said - - -

30

- - - in a social setting.---I just said it happened once. I remember it happening once.

Could it have happened more than once?---I, I doubt it and it wasn't anything to do - - -

Why do you doubt it?---Because it just wasn't the thing we did and it wasn't Demian that night. I'm pretty certain it was a Friday night. They were always Friday nights at the end of a long week. We'd get together for a cup of coffee or a couple of drinks and that was it.

40

And you think it might have been Marwan Chanine?---Possibly, possibly, although I don't know them, and the only application in their case that I can recall is the one in South Parade which was a, if you like a proposal that involved the council, its, its assets, and a proposal they had to construct a residential flat building on a council car park, which the council also signed off on.

You don't recall development applications for a site on Canterbury Road close to the station?---I know the one you're referring to, I know the site, but - - -

212-222 Canterbury Road and 4 Close Street.---Is that the Doorsmart one?

10 Doorsmart.---Doorsmart, yeah, I know about it but it's all, I'm, I'm not familiar with the details. The only issue I can recall there was that because it backed onto a council-owned site in the side street, but the name escapes me at the moment, Close Street, that's right, and it was a very large site which the council was trying to get redeveloped itself, that didn't go ahead either, there was concern about, again about the setbacks from their side in Canterbury Road onto our site in Close Street.

Did Mr Chanine raise either of those DAs with you in a social setting?
---No, not in any, not in any - - -

20 Why do you say no like that?---Because, because it didn't happen, not in any depth. Look, he may have said in passing, oh, you know, what do you reckon about that? I might have said, well, I don't know, I'm not a planner, I can't tell, I can't advise you, talk to the planning staff. I, I didn't invite these people, it was, it was Mr Azzi was the host. Who he invited to his own home is his business. Was I comfortable with them being there? Sometimes no. And that's why I was very careful not to say anything that, that gave them false hope in relation to a DA or a, or a proposal, and I don't believe I ever did. They knew where I stood. If you want something out of council, you go through the proper channels. Talking to me is not going to change anything.

30 Are you sure that that is the approach that you took with development proponents when you met them in social settings?---Yes. Because I'd be, I'd be deluding myself. I can't make decisions on behalf of the elected body.

But you can make development proponents as happy as you can.---Well, I don't like the use of the word happy as I can. I mean they, they - - -

40 Well, Demian was your friend, wasn't he?---He was an acquaintance. He wasn't a friend. I never socialised with him at each other's homes or anything like that. I had lunch with him once or twice over that five-year period perhaps.

You consulted him frequently and he you over what to do with Mr Hawatt during the dispute.---Yeah, but that's an entirely different thing, Mr Buchanan.

Why is it an entirely different thing?---Because of the - - -

Why would he intervene on your behalf unless he was your friend?---Well, he was an acquaintance, I repeat, and he took it on himself to do that, I didn't ask him to intervene on my behalf, I was ready to accept whatever fate was doled out to me, but I did fight to keep my job.

10 It's very difficult to accept that when you're giving evidence like that you're consciously telling the truth. It does sound – I must give you the opportunity of responding, sir – as if you are just saying any old rubbish in order to try to fob the Commission off.---No, not at all, not at all, and I object to the, to the, to you calling me a liar. I'm not a liar. I did what I thought was right at the time in every instance, particularly in relation to the appointment of Mr Stavis, and if people like to drill into that a bit more and have a real good look at the circumstances, which you can't, and the Commission can't, because they weren't on the ground out there when it was all happening, then you might have a different perspective on it. I'm sorry, but I'm not a liar and I object to being called one.

20 Can I take you to another project, the Harrison's site at 548-568 Canterbury Road.---Yes.

There were both planning proposals and development applications in respect of that site.---Yes.

And if I could ask you to accept from me, the site at 548 Canterbury Road was the subject of the Residential Development Strategy planning proposal in 2013/2014.---It was, I think it was one of the sites included, yes.

30 And that in November 2013 there was a DA for the construction of an eight-story mixed-use development there, but the applicant, a Demian company, lodged amended plans proposing a six-storey development instead. That happened in mid-2014.---Yes.

40 In the planning proposal, the RMS raised concerns with council about the planning proposal because of its impact on roads and other transport infrastructure. That was in August 2014. And I should just indicate – if I can just go back, because this will become relevant – in the planning proposal the subject of the Residential Development Strategy process, the resolution was for, amongst other things, the maximum building height to be increased from 18 metres to 25 metres. Okay?---Yes.

Now, the amended six-storey development application was approved by the JRPP. That was in October, 2014.---Yeah, I'm not sure of the date but that sounds okay.

If you could accept it from me.---Yeah.

And if you could accept it from me that after exhibition the 2013 planning proposal for the increase in height limit to 25 metres was approved by

council. That was on 2 October, 2014.---Eight metres approved. Sorry, 20 -
- -

Increased from 18 to 25, gone out of public exhibition in 2013-14, come back to council after public exhibition, and the increase in height limit on that site as part of that planning proposal was endorsed by council.---That I'm not sure at. I, I, I'm a bit hazy on that but I thought it had something to do with the 4.6 application and, and the provision of a laneway at the rear of the site.

10

Well, we might come to certainly the former of those. Now, in December, 2014 there was a DA to add two storeys to the approved six-storey development.---Yes, I vaguely remember that.

This is DA 592/2014 and very shortly afterwards, coincidentally a matter of days, due to RMS concerns requiring further traffic assessment, the increase in height for the development at that site was dropped from council's planning proposal.---Fair enough. I, I don't - - -

20 By council in order not to jeopardise the rest of the planning proposal.---Fair enough. I, I, don't recall that but no doubt it happened.

Now, can I just, there were further developments after that but I'd like to just take you to some matters going back a little way. Can I ask you to have a look at volume 11, page 53. Can you see there is an email conversation, the bottom part of the conversation is an email from George Gouvatsos to you of 11 July, 2013, in which he said, "I refer to your enquiry about the subject site and advise that we have received a submission for the site to be rezoned to allow for high density residential."---Excuse me, when you say
30 high density, are we talking six or eight there?

This is a planning proposal. It's the height, as against how many storeys might be effective to effect that height.---Yeah, it amounts to the same thing. I mean, it's either 18 metres or 25.

Well, what I would like to take up with you is that Mr Gouvatsos said he referred to your enquiry about the site.---Yes, yes.

40 And my question to you is, you would accept that that suggests, knowing as we do your relationship with Mr Demian, that Mr Demian had said something to you and you made an inquiry of George Gouvatsos consequent upon that inquiry.---Yes. Yes. Mr Demian, as I recall, was very persistent, but as I've said repeatedly, if people in the community who are, have, are stakeholders in our area want advice or help, I'm happy to try and assist if I can on all occasions, whether it's Charlie Demian or a mum-and-dad application to put in a granny flat. It doesn't matter to me. So if he, if he rang or he got somebody to ring me to say how's that going, I would have just passed it on to George, "Can you give me an update?" That's it. I

didn't say, "George, there it is. I want that approved." I just wouldn't do that. I don't understand the nuances of the application or of the controls to the extent that a planner would.

I'm sorry to interrupt you, but all I asked you was whether you'd accept that it appears likely that you were making this inquiry as a result of an inquiry made of you by Mr Demian.---That's possible but it may not have been Mr Demian.

10 Who else could it have been or what other type of person?---Could have been, could have been the, the guy next door or it could have been Jimmy Maroun or it could have been anybody along Canterbury Road that had an interest in what was happening on Canterbury Road. This site is a massive site, 22, I think it's 20,000 square metres.

Excuse me a moment.---Could have been on behalf of the mayor for all I know.

20 Thank you. The likelihood is, though, that it was an inquiry from Mr Demian of you.---I can't, I can't agree to that. I mean, what does likelihood mean? I've said it could be anybody. If I, if I remembered that it was Charlie Demian who asked me about it, I'd say, yes, it was Mr Demian, but I can't say that with any conviction.

Can you think of anyone else that you know of who had an interest in 998 Punchbowl Road that came to your attention?---Yes, there were the people, there were people in the car wash. The car wash people on the other end.

30 No, no, I'm sorry, 998 Punchbowl Road.---Oh, I beg your pardon, sorry. We've gone back to 998. Okay, now, switch over to 998. Well, there was some interest expressed by the, by our neighbouring council just in a passing sense because, as I said, it's right on the border of Canterbury and, or the then-Canterbury and Bankstown. The Croatia Club's there. There was an interest in trying to develop things that were consistent or uniform across that particular zone. So, yes, there are other people, but in relation to 998, yes, I agree with you, it is more likely it would have been Charlie Demian.

40 And then in January 2015 you had a number of contacts with Mr Demian, culminating in your meeting with Mr Hawatt and Mr Demian in Mr Hawatt's Lakemba office. That occurred after this.---Sorry, the meeting in Mr Hawatt's office?

Yes, I suggest 13 January, 2015.---Was that about Mr Stavis's appointment or some other issue?

Yes.---Okay, well - - -

No, no, no, about the motion to terminate you in your position.---Yes.
Yeah, I admitted that. Charlie Demian was there.

And there were numerous contacts beforehand.---Oh, I don't know about
numerous. There may have been contact.

And there were numerous contacts after - - -?---Can't confirm that either.

10 - - - between you and Mr Demian.---I think I said yesterday when you asked
me this question that Mr Demian wasn't being truthful. I think that was a
bit uncharitable on my part. Maybe he, he misspoke or maybe he didn't
remember properly. But I, I remember him being present at Michael
Hawatt's office in Haldon Street, Lakemba.

Now, excuse me a moment. Can I ask you to have a look at a text message
in volume 19, page 161. This message was extracted from Mr Hawatt's
telephone and it is a text message sent by him to Spiro Stavis on 20 June,
2015. So that's five months later.---Yeah. Yeah.

20 And it reads, "Hi, Jim/Spiro. Can we meet with myself, Pierre and Charlie
Demian on Tuesday to discuss Charlie's developments along Canterbury
Road? Please let me know." Do you see that?---Yes.

And then if we go to page 163 we can see that the counterpart text message
was sent to your phone, the duplicate.---Yes, fair enough.

30 Now, do you recall Mr Hawatt asking for you to meet with Demian, himself
and Pierre Azzi?---No, I don't, but that's obviously how that meeting came
about I would suggest. I don't know that it ever, when it happened or I
think we do know now what date it was.

This is before the meeting took place with the piece of paper.---No. Oh,
sorry, well, that was specifically 994, Charlie had - - -

No, no, no, the piece of paper was - - -?---Was 994.

40 I'm sorry, you're quite right, I do apologise, thank you.---Yeah, there, there,
there are two sites that Charlie has an interest in on Canterbury Road to my
knowledge, one is 994 and the other one is the Harrison's site, 548 or 568
Canterbury Road. Now - - -

And also 570.---On the end, yeah, the old carpet place, yeah, granted. So
here, I don't know whether that meeting ever took place and if it did,
because it's a request, and I don't see any response from me saying, yes, we
can meet, and if I did we'd have to, we'd have to try and pinpoint when that
occurred and if it was the meeting about 994 I've already admitted that yes,
there was a meeting about 994, and that's when that little bit of paper turned
up. I've got no problem with that. As far as Harrison's is concerned, I

don't recall meetings about that. There may have been one meeting in relation to the carpet store, but that was later, again in my office.

Then if you could go to volume 19, page 167, please.---Yes.

10 And do you see that this is a text message from Mr Hawatt to you on 22 June, 2015. It reads, "I have confirmed meeting on Thursday 4.00pm with Charlie Demian at council. Pierre and I will be attending as well."---Well, fair enough. I don't know how he got that confirmed, whether he, whether he got that through Charlie Demian or not, but I assume he did, and there was nothing sinister about that. The meeting's been set up, Pierre will be there, we know he showed up, I've already we've already - - -

This is in June - - -?---Yeah, well - - -

- - - of 2015, this is before – I withdraw that.---I don't know. The date are all just running into each other now.

20 Sorry, can I just, I skipped over one that I do need to take you to from Mr Stavits to Mr Hawatt, page 165 of the same volume. Can you see item 1 is an email from, I'm sorry, a text message from Mr Stavits to Mr Hawatt - - -? ---Yes.

- - - of 21 June, 2015. "Hi, Mike. Just checked my messages. Re Charlie Demian's jobs, the GM said we'll meet later this week."---So that would have been sometime after 21 June, 2015.

30 Then there is the text message to you from Hawatt confirming the details of the meeting on 22 June. This is at page 167.---Yeah. See, that email doesn't only relate to Demian's though, it relates to other matters as well, so maybe, maybe Spiro was just getting it all off his chest at the same time to Michael.

Can I take you to page 172, please. So if I can just remind you that the details Mr Hawatt confirmed with you, this is page 167, on 22 June, 2015, were that the meeting would be on Thursday at 4.00pm with Charlie. ---Yeah.

40 The Thursday was 25 June.---Okay.

If I can take you to page 172. This is at 5.53pm, so after the time when the meeting was scheduled to commence.---Yes.

And it is from Demian to Mr Hawatt at 5.53pm, "Please call when possible." So it would seem that the meeting was over.---Yeah.

Hawatt responds at 5.55pm, "Everything is okay. Jim will call you." ---Yeah.

And Demian responded at 5.56, "Thanks."---Yeah, I can see that.

Are you able to assist us as to why after that meeting had appeared to have concluded Mr Demian was sufficiently concerned to want Mr Hawatt to call him when possible and that Mr Hawatt responded, "Everything is okay. Jim will call you"?---I understand that but, no, I don't know why and I don't know what the subject matter was. Maybe he just wanted further clarification or confirmation of the meeting or what was proposed to be discussed at the meeting. I can't tell you, Mr Buchanan. I'm sorry.

Was there anything that had gone wrong in the meeting?---Not that I recall, no.

Was there anything that Mr Demian might not have been happy about? ---Well, he wasn't happy about the fact that he couldn't get eight storeys but it was never going to happen. He had a snowflake's chance in hell of getting eight storeys on that site.

20 On 548, the Harrison site?---Yes.

He did get it though, didn't he?---Well, I don't know whether, I don't know what's on that site right now. I mean, I believed - - -

No, I'm talking about council determination of a DA?---Yeah. No, I don't know whether he got it or not. It went off my radar completely. If he, if Mr Demian didn't request me to assist him in some way or arrange a meeting with Spiro I took no further action. I wasn't that wedded to the whole project. I didn't understand it. I knew he got six storeys and he wanted eight. Whether he ever go the eight, I think it was, look, I might be wrong here, completely wrong and I apologise to Bankstown if I am - - -

Please, please, please, just stop talking. If you could just simply answer my questions and not continue on.---I beg your pardon? I am trying to answer your question, Mr Buchanan.

Well, you're not. What you're doing is you're making a speech. I've asked you whether you can assist us as to what it could have been that caused Mr Demian to want to talk to Mr Hawatt after the meeting had apparently concluded when possible, and why Mr Hawatt would have been saying, "Everything is okay, Jim. We'll call you."---I've got, I've got no idea.

It sounds, though, as if after, or maybe even before, Mr Hawatt texted, "Everything is okay, Jim, we'll call you," he spoke with you. Hawatt spoke with you.---Could have. I don't know. I can't recall. You wanted a brief answer, there it is. I can't recall.

Thank you. If I could just take you, please, to Exhibit 122. And if I could take you to, sorry, so that you can see what this is, it's call charge records for contact between Mr Demian, Mr Stavis, Mr Hawatt, Mr Azzi, yourself and Mr Daniels. But if I could just take you then to page 5, and if you have a look at item 190.---What date was this, I'm sorry?

The date is 25 June. The time that the call commenced is 5.53pm.---Yes.

Do you see that?---Yes.

10

The contact was for 1 minute and 34 seconds and it's initiated by you to Mr Demian. So, it would appear that when there was a concern on the part of, in this instance anyway, a concern after a meeting where you'd been present, and Mr Demian and Mr Hawatt had been present, concern on the part of Mr Demian, expressed to Mr Hawatt, Mr Hawatt was able to get you to speak to Mr Demian about whatever the matter was that caused Mr Demian concern.---Yeah, possibly.

20

Can I ask why you would have been prepared to call Mr Demian in those circumstances?---Well, it depends on the nature of the matter, what Michael Hawatt asked me to do. It might have just been to clarify something and he felt I was better placed to do it. I might have flicked that on to Spiro. I don't know. It, it was a minute 34.

Well, you didn't flick it to him. You rang Mr Demian.---Yeah, but I could have but maybe I thought, oh, I'll give him a ring, why not? It's, it's not, I mean, I, I don't know how many times I've got to say this, I had no control over the DAs, over who got approval and who didn't, nor did I seek to.

30

Excuse me a moment. In July 2015, the DA to add two storeys to the approved development at 548 Canterbury Road was before council. Mr Stavis, the evidence shows – this is at volume 23, page 270 to 271 – approached an external assessor by the name of Willana Associates.---Don't know them.

40

To provide a report assessing that development application. Had you, in respect of that particular development application, given Mr Stavis any instruction as to when the report was to go to council or the CDC?---No. Apart from perhaps saying to him, get it up to the council as soon as you can because, as I said way at the beginning of these things, these hearings, there were delays that were inexplicable and people weren't happy about it.

But you never gave him a deadline?---No, no.

You never said any report had to be by, had to be with council or the CDC, as the case may be, by a particular meeting.---I don't recall doing that.

Or for a particular meeting?---I don't recall doing that, no.

The most you would have done is to have urged him to do things as soon as possible?---Yes. In relation to that and other, other DAs that were held up.

Did you understand, did Mr Stavis lead you to understand that in respect of the report that you asked him to have ready for the next available meeting - - -?---I could have done that.

10 - - - he didn't have the resources internally to meet that deadline?---No, no. That's probably right.

And did you ask him to get it done even if he needed to go with an external consultant?---I told him repeatedly, if he didn't have the resources, do one of two things, engage external help or ask me for additional staff. He did neither as far as I know, except in this case it seems he did employ somebody or engage somebody to help him.

20 Where would you get extra development assessors from?---Well, they're hard to get, but all you could do is advertise and get people in. It was like a revolving door. It's hard to get good planning staff. But he didn't ask me for additional people.

Would it surprise you that if in that circumstance, Mr Stavis approved a quote supplied from external assessor without getting quotations also from other planners or assessors?---Well, it depends, it's depends on the amount.

You see, under council's procurement policy, obtaining three quotes was considered good business practice, wasn't it?---Yes, yes, yes.

30 In due course, if I can take you to volume 23, page 268. That is to say after amalgamation - - -?---Oh, yes.

40 - - - Mr Spiro sent an email to a person called Lili Cabo, C-a-b-o, at Canterbury Council, well, at the amalgamated council as it would have been at that stage, on 23 August, 2016, and he said, "Please see the attached," and the attached when one goes to it at page 270 was a quote from Willana dated 30 July, 2015 for an assessment of that DA. And his explanation as to why Willana were engaged, and I'm taking you to page 268 in the third paragraph, "I was instructed by the former GM to finalise the report in time for the next available meeting. I explained to him that I did not have the resources internally to meet his deadline. He asked me to get it done, even if we needed to go to an external consultant." And then he says, "Due to the urgency of the matter and in consultation with the former GM I approved the attached quote to engage Willana to proceed."---Okay.

Is that all correct as far as you're concerned?---I've got no idea. That's his recollection. I can't verify it.

THE COMMISSIONER: No, but do you agree with it?---Well, I agree that I told him to get external help.

MR BUCHANAN: And to get it to the next available meeting of council? ---I could have said it had to go to the next, or get it up as soon as possible or something along those lines, or to the next meeting, yes, I could have said that to him. These, these applications had been delayed like a lot of others and they needed to be moved along.

10 Or was there another or further reason, did you do that because of something Mr Demian said to you?---No.

How do you know that?---Because I don't operate that way. I wasn't going to have Charlie Demian telling me how to do my job, or anybody else for that matter. And, and, you know, like, this is all, all very well for Spiro to say this now, after the event, but I don't know whether this is just a brain dump or what it is. Maybe he was trying to get himself off the hook. It's possible.

20 I note the time, Commissioner.

THE WITNESS: And he didn't patch me, oh, I wouldn't because I wasn't there. It doesn't matter anyway.

THE COMMISSIONER: All right. We'll adjourn and resume tomorrow morning at 10 o'clock.

30 **THE WITNESS STOOD DOWN** [4.03pm]

AT 4.03PM THE MATTER WAS ADJOURNED ACCORDINGLY
[4.03pm]