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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 MONDAY 15 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: Any administration?

MR BUCHANAN: No, Commissioner,

THE COMMISSIONER: All right. Sarah.

MR BUCHANAN: Mr Hawatt, when we finished on Friday, I was asking you about whether there was a meeting that you had with Councillor Azzi and Mr Montague at the Bulldogs Club on about Wednesday 18 February, 2015. What I would like to do to assist your memory about that is show you some emails. If we could go please to volume 5 on Exhibit 52, page 106. This is an email conversation on Wednesday 18 February. At the bottom of the page is an email from you to Jim Montague at 10.51 in the morning of 10
18 February. “Hi Jim. Can you include the above on the agenda for the next council meeting?” And you can see that that’s a non-hostile communication with Mr Montague. If I could take you then to Mr Montague’s response at 11.24am. “Michael, no worries. When are you free to chat today?” Do you see that?---Ah hmm.

And then you reply to Mr Montague at 11.56am, “Hi Jim. I have a meeting in the city and should be okay around 3.00pm. Let me know where you want to catch up with Pierre.” And then at 2.16pm, Mr Montague
20 responded asking whether the time of the meeting could be a little later, around 5.00 would be better for him and asking you where you wanted to meet. Then going up the page, at 3.34pm, you said to Mr Montague, “Is 5.30pm with Pierre at the Lantern Club, Roselands okay? We all feel the same and need to move forward for the sake and benefit of council. Let’s have an open dialogue to help resolve the issue and get back to normality.” And if we could just go to the call charge records in Exhibit 223, hang on, 233, page 8, I think. Page 8. If you go to item 314, you can see that that’s a text message that you sent to Mr Montague at 3.16, on 18 February. You talked then with Pierre Azzi for 2 minutes and 29 seconds, and then you sent
30 a couple more text messages to Mr Montague around 4.08pm. He texted you back at 4.12. You sent him two further texts at 6.14 and, I’m sorry, 4.14 and 4.21pm. You see those contacts?---Yep.

And so there’s obviously something happening between you and Mr Montague at this stage?---Ah hmm.

And you’re keeping Pierre Azzi apprised of what’s happening and you’re talking to him about it?---Yep.

40 And then, if I can just take you to the top of page 106, in volume 5, Mr Montague asked you whether the venue could be Bulldogs Club, because – he used the word “we” – “We might be seen at the Lantern Club.” Now, thinking back if you can, do you have a memory of meeting Mr Montague around 5.30pm - - -?---Look, it’s - - -

- - - with Pierre Azzi on 18 February?---I don’t have a strong recall, honestly, about this, but, but the last message about trying to get back to normality rings a bell, I have to say. And yes, there could have been a

meeting but I'm not a hundred per cent sure on, on the, what, what was discussed at that meeting, because I don't recall it except for that, that last message, it sort of, it rings a bell in my mind. But to give you complete recall of what's happened, I can't, I can't do it.

Well, can I approach it another way? Obviously, the relationship between you and Mr Montague involved decreased hostility and increased cordiality from late February 2015, into March 2015, bearing in mind that the date that Mr Stavis started work as director of planning was 2 March. You'd accept that that change in the hostilities did occur?---Yes.

Can you tell us what you can recall about any communication you had, whether it was on the phone or face-to-face, with Mr Montague that caused that or led that to occur?---Oh, I mentioned last Friday, Mr Buchanan, that I think everybody had enough of, of, of the problems that was, councillors been faced. There was a lot of negative publicity. Council wasn't functioning well. Mr Montague was quite depressed. The councillors that I was dealing with on our side all had lot of threats and intimidations. So we needed to resolve this, this whole thing and I think it was in the best interest to reach a, a, an amiable conclusion to this whole issue that we had. And to me that, that was the, the beginning of it, trying to resolve this for, for the benefit of council.

But you learned, didn't you, that Mr Montague was prepared to let Mr Stavis start work as director of planning?---Mr Montague admitted he made a mistake. We had an employee. We had an, Mr Stavis, it could have, as I said the other day, it, it could have been Mr Donald Duck or, or Miss Jones, if I care. The issue is, there was an employee, and there was a contract, and we had to, there was an obligation to council to ensure that the contract is met. And the condition was that, yes, he will honour the, the employment, and test him out, which is under normal conditions. You test him out. If he performs, it's okay. If he doesn't perform, he's got time for him to sack, to, to, to remove him. That's under normal conditions.

THE COMMISSIONER: And when did Mr Montague admit that he'd made a mistake?---I think at the meeting with Mr Alha.

MR BUCHANAN: So is it possible that at the meeting with Mr Alha and Mr Montague, the basis or the groundwork for an agreement was set? That is to say, you heard Mr Montague say that he'd made a mistake and indicate that he was prepared to take Mr Stavis on as director of planning, but that details of how this was to occur still had to be agreed? And is it possible that that's what occurred at the meeting at the Bulldogs Club on 18 February?---Well, I mean, the reason – sorry, Pierre was involved in this because he was the seconder of the motion which had to be withdrawn. So it takes two councillors, we moved the motion, myself and Pierre, and we both had to cancel. So both of us have to be happy with the outcome in

order to, to remove or cancel the, the motion that we had in regards to Mr Montague. So this was - - -

And Pierre was not present at the meeting with Mr Montague and Mr Alha, is that right?---No, definitely not.

That is correct?---Hundred per cent.

10 Is it possibly the case that Pierre had to be present because he was your comrade-in-arms, as it were, in the dispute you'd been having with Mr Montague?---No, he was a seconder of the motion.

20 Is it possible that he was present – he, Pierre Azzi – was present at the meeting with Mr Montague at the Bulldogs Club because this was a major change in the dynamics, the political dynamics at council and Pierre had to hear from, with his own ears that Mr Montague was prepared to take Mr Stavis on?---Nothing to do with Mr Stavis. He was a seconder of the motion and he had to withdraw his, his motion like I have to withdraw it. We both have to agree on it. That's, that's the way, that's the normal position in regards to motions that are moved and seconded.

Was anything ever done – I just want to take a step aside from what I've been asking you about – was anything ever done to find out whether Mr Stavis would be prepared to perhaps take a small amount of compensation for his contract not being honoured and obtain a job to his satisfaction at some other council?---That's, you're asking me a question I can't answer. I wouldn't have a clue.

30 Well, is the answer not to your knowledge?---Not to my knowledge, no.

And that means you didn't ever attempt to solve the problem of council's liability to pay compensation to Mr Stavis by talking to Mr Stavis as against talking to Mr Montague?---That doesn't make any sense, no.

Why wouldn't that make sense?---It was nothing to do with me in regards to giving him financial benefits to withdraw or not to withdraw. It's none of my business. Why would I do that?

40 Well, sorry, I thought that you had indicated that this was very much your business, that you were very concerned about the question of compensation to Mr Stavis, and I'm just wondering why in that case you didn't do anything about it.---There's a, there's a difference between based on cancelling a contract (not transcribable) obligation to the council to pay 38 weeks and negotiating for him to get extra money. It's got nothing to do with it. Completely, I mean, I don't know where you got this information from. It just doesn't make sense.

No, I'm not talking about extra money. I'm talking about compensation.
---Well, compensation, it's - - -

Compensation for his contract not being honoured. Why - - -?---It's, it's,
it's none of my business.

That doesn't make any sense.---Well, it does make sense to me. Got
nothing to do with the motion that we're moving. Completely different.

10 That doesn't make any sense at all, Mr Montague – I do apologise, Mr
Hawatt because your evidence has consistently been that you were
concerned about the liability of council to pay compensation to Mr Stavis.
And there is an inference to be drawn from the fact that you used that as a
reason to try to terminate Mr Montague as general manager rather than try
to approach Mr Stavis, with whom you had been frequently dealing and who
was in your telephone contacts, to see whether Mr Stavis would be prepared
to take a reduced amount of compensation and maybe he could be assisted
to find a job somewhere else.---I don't know where you got that information
from. It doesn't make sense. I've never even thought about it or spoke
20 about it or even discussed it, so - - -

But the inference to be drawn is that you all along were concerned to ensure
that Mr Stavis was employed as director of planning and had a reason for
that, rather than were concerned about what you claimed to be concerned
about, namely council's exposure to pay Mr Stavis compensation.---I still
had that concern. Doesn't make any different. That's totally different.

THE COMMISSIONER: You had contacts with other councils. For
example, Sutherland with Mr Johns. Did you make any enquiries with them
30 whether there were any vacancies in their planning departments that Mr
Stavis could apply for?---I don't recall that, Commissioner.

MR BUCHANAN: You tell us, though, that you and Pierre Azzi agreed
with Mr Stavis at the meeting that occurred at Pierre Azzi's house at the
time before 4 December, when you learned that Mr Montague had decided
to employ Mr Stavis, that Mr Stavis would be prepared to take a lesser
position, such as senior planner.---So this is way before that was discussed
but I, I, as I said, Mr Montague would not have a, a bar of it. The only thing
we had was, there was a, a general discussion going back in regards to
40 shortage of planners in Canterbury Council and if, if there was an
opportunity to employ him as a, as a planner. That's, but, and I, we knew
that Mr Montague would not have a bar of it. It's something that's just a
very weak discussion just to try and appease Mr Stavis at the time but
nothing went further than that, and there's nothing, there's no conspiracy
behind it and there's no incorrect doing behind that. I don't know what
you're making your assumptions up. It doesn't make sense.

There wasn't a shortage of planners at Canterbury Council so much as you

were not impressed with what you regarded as the quality of the planners at Canterbury Council, isn't that the case?---No. That's, no - - -

You wanted people like Mr Stavis to be employed instead?---Even if he was employed, we don't deal directly with, with the staff, especially planners. We only deal with the directors and the senior, senior members, not, not the staff. So it doesn't make any difference.

10 Did you ever say anything to Mr Montague about perhaps Ms Dawson being replaced by Mr Stavis?---If there was discussions, I don't recall this, I don't recall, but Ms Dawson, from my understanding she was acting director and I wasn't what, what her role was in regards to moving on or not. I don't know. Unless she said she was going to leave.

Did you think that she was a good manager of planning?---No, I didn't think so.

20 And did you tell Mr Montague that you didn't think she was a good manager of planning?---I can't recall.

The likelihood is that you did.---Maybe but I don't recall.

Was there ever a suggestion that Mr Montague should replace Ms Dawson with Mr Stavis?---I don't recall.

Is it possible that that suggestion was made by you or Mr Azzi to Mr Montague?---I can't recall if it's possible or impossible. I don't recall.

30 And just to conclude on that particular issue, if it was possible for Mr Stavis to be employed as the senior planner at Canterbury and you didn't care who was director of planning, it could have been Donald Duck, then why not arrange with one of your colleagues from the Liberal Party who were mayor of different municipalities in Sydney for Mr Stavis to be introduced as a potential candidate to be employed as a senior planner at one of those councils?---Why should I do that? What's it's got to do with me? I'm not his employer.

40 THE COMMISSIONER: You had legal advice on the contract, on Mr Stavis's contract?---Oh, there was, from, from what I hear, there was, it's not just what I hear, but from what I knew in regards to the Act, because when I did my research in regards to Mr Montague, the senior planner when we moved the motion, in that Act it says senior staff. And that senior staff, in my mind, was under the 38 weeks, was also included the contract to Mr Stavis.

There was a text message, I think from Mr Vasiliades, about legal advice, do you remember that, back in December? I thought that suggested that either you or some of the councillors - - -?---Yeah.

- - - who agreed with your position did obtain legal advice.---Oh, I think, from what I recall, Con Vasiliades might have done that. I, I don't recall.

And did you meet with a solicitor or were you given some kind of written advice?---No, I haven't, I haven't met a solicitor. Just from my own knowledge of the Act.

10 Did anybody discuss with you mitigation of damages? For example, if you claim compensation for a breach of contract, often there's an obligation on the person to mitigate that loss. So if Mr Stavis did get another job, that would cut back, or decrease the amount of compensation the council may have to pay. Did you ever get any legal advice whether that was a possibility?---No (not transcribable) never thought of it, never thought.

Did anybody ever approach, or did anybody from your group of concerned councillors approach one of the law firms on the council's panel to get some legal advice?---Could be Mr Montague, I don't recall. Mr Montague might have made - - -

20

But he was in a different camp.---Yeah, correct, but I think he would have eventually got the, the right advice to, in regards to payment.

Did you see any advice that he obtained?---No, I haven't seen it.

MR BUCHANAN: Did you ever have any contact with a Mr Belling, solicitor of a firm called K&L Gates - - -?---Mr Belling? Never, never heard - - -

30 - - - firm of solicitors about this matter?---Never heard of him.

THE COMMISSIONER: As a councillor, could you move either a motion or, outside the actual formal mechanisms of the council, demand or seek that legal advice be obtained?---Look, I, I, I can't recall at that extraordinary, no, not outside, sorry. It's, it's not legal.

So it's got to come through - - -?---Has to come through the council, yes.

- - - via a resolution?---Yes, yes.

40

So it was open to you to pass a resolution that - - -?---Yes.

- - - one of the law firms on the panel be approached?---Yep, yep, yep. Mmm.

And that wasn't done?---I can't recall. Oh, but I don't, I don't recall.

MR BUCHANAN: So you must have had conversations with Pierre Azzi about the resolution of the dispute with Mr Montague, mustn't you?---Well, we had a lot of general discussions regarding the problems. I mean, that's normal.

What conversations did you have with Pierre Azzi about the resolution of the dispute with Mr Montague?---This is the meeting we had at the club we were talking about, the same meeting.

10 Yes, well, no, no, just generally, but by all means, arising from a meeting at the club, if that's what you can tell us about.---Well, the meeting is to, to get his endorsement to withdraw his, his, his motion to his, yeah, his second of the motion.

And when is it, as you recall, that Pierre Azzi agreed to do that?---Well, at that, at that meeting.

20 And when was it you decided to withdraw it?---Well, I decided at the meeting with, at, after meeting Joe, at Joe Alha's house. That's mine, that was my position. Then I had to meet up with the seconder, and then we had to go back to the rest of the councillors to discuss with them.

Now, I don't want to be picky, but hadn't that motion that you and Mr Azzi had given notice of been considered at the meeting on 27 January of council?---That wasn't accepted by the Local Government Minister. They, they criticised that, because it was - - -

30 And then there were motions arising from that that were considered at the meeting of council on 13 February.---Correct. We were going to continue with them, yes.

But they were defeated or ruled out of order.---I think they were ruled out of order.

40 But the situation as at, say, the time that you met with Mr Alha and Mr Montague, but certainly by 18 February, 2015, was that there was no motion on foot or of which notice had been given to remove Mr Montague as general manager, isn't that right?---No, that's incorrect because there was the motion that we had, that, that the councillors, we had a meeting where Councillor Adler also included a lot of dot points, and that was the motion that was going to be put forward to council, and that included having a, a new acting director and acting GM and, and so on. So that was still active. We never, we never continued with it.

But they were ruled out of order.---Yeah, but ruled out of order by the mayor who, we believe he did it illegally because the majority of the councillors, he didn't allow them to vote on it. It should have been voted on

the floor of council. He just got up and walked. Just, he stopped the meeting without, without having it debated on the floor of the council.

So your position at the time you walked into the meeting with Mr Alha and Mr Montague was that if there wasn't a motion on foot to terminate Mr Montague as general manager, then you would certainly move one at the earliest opportunity, is that right?---No, there was already one in the air, and I think Mr Montague knew there was a motion coming through, and I think he was concerned that he didn't have the numbers.

10

But when you say a motion coming through, you mean that you would have ensured was put to and considered by council?---Well, eventually. We had to have a, a formal meeting because the pressure was on the mayor to, to make sure that we have a formal meeting to discuss it.

20

Now can I ask you, during this period of dispute with Mr Montague, what contact did you have with Bechara Khouri?---Like any other contact with anyone who calls me. Everybody was lobbying. Like, there was a lot of calls. People were supporting Mr Montague, others weren't, and that's the basis of it. There's nothing to discuss anything else except the issues of support or not supporting for Montague.

Was there any contact with Mr Montague – I do apologise. I'll start that question again. Was there any contact with Mr Khouri of which you were aware with a view to Mr Khouri conveying messages to Mr Montague?---I don't recall.

30

Was there any contact with Mr Khouri of which you're aware in which messages from Mr Montague were conveyed to you or to Mr Azzi?---I don't recall.

So did Mr Khouri play a role during this dispute?---I think Mr Khouri was supporting Mr Montague on that basis.

And did he convey that support to you?---He might have. Everybody was contacting me in regards to this issue.

40

Do you remember Mr Khouri contacting you about the issue?---I don't remember him specifically, but I remember a lot of calls coming through from different people, various people.

I'd like to take you forward in time now, please, to a meeting that occurred at the Bulldogs Club with Mr Stavis on 5 March, 2015. And just so that you put it in context, Mr Stavis started work as director of planning on 2 March, Monday, 2 March, and 5 March I think was a Thursday in that week. If I could show you, please, volume 5 in Exhibit 52, page 135. You can see that that is an email from Mr Vasiliades's private email account to you on Wednesday 4 March. So this is the day before the meeting I want to ask

you about, the Bulldogs Club. This is at 3.51pm and it's addressed, "Hi Spiro," and signed Michael Hawatt. And you see that you say, "Amongst other things, some of the issues that we would like to discuss tomorrow night are," and then there's a shopping list of issues?---Yep.

What were the circumstances in which that email was sent to you by Mr Vasiliades?---I think it's my email.

10 Yes. If you can explain how that came to occur?---Well, I must have been with Con in his office and at the time probably – sometimes it's convenient for me to, to do something on the spot and send it to my email so I can forward it on. I do that quite often, just use his office, it's convenient sometimes.

Is it possible that in preparing this email, you consulted with George Vasil? ---I don't think so. I think this would have been Con and I sitting down working on this.

20 But Con didn't have an understanding about planning issues, did he?---Con had some understanding, of course he had. Like - - -

Whereas George Vasil had a deep understanding, or at least interest in planning issues, didn't he?---But these are my, this is nothing to do with George. These are my, these, these are actually my thoughts, not George Vasil's thoughts. Nothing to do with planning expertise.

30 The second last dot point, "Council resolution re separation DCP into various chapters for different zones and uses." That wasn't something to which George Vasil contributed?---No. That's mine because I knew there was a lot of problems with our DCP.

Well, you see, if all of this was compiled by you, why did you need to compile it at Ray White Real Estate Earlwood? Why couldn't you have compiled it from your computer at home?---Sometimes it's convenient. Sometimes my computer doesn't work. I used to have, I used to have an, at that time, very old computer, very slow and it's, and I use his. It's much more faster and more modern. I got rid of my computers. I think you guys collected them and they're pretty old.

40 The convenience of preparing this email at Ray White Real Estate Earlwood was that you could obtain the input of George Vasil, wasn't, it?---I don't recall even George sitting with us on this one. I mean, it's just an assumption you're making. I don't even recall being there.

When you were at Ray White Real Estate Earlwood, did you meet at a large table, in a room with a large table that could accommodate a number of people?---Sometimes we meet around that table, yes.

And that was a room that had George Vasil's desk in it as well?---That's correct, correct.

That is to say the desk at which George Vasil worked?---Yes.

When you met with the other councillors at Ray White Real Estate Earlwood, the actual meeting occurred, didn't it, around that large table?
---Yes.

10 Excuse me a moment. Now, this email reads as if you had already had a contact or contacts with Mr Stavis about a meeting the next night, 5 March. Do you see the opening sentence, "Amongst other things, some of the issues that we would like to discuss tomorrow night are"?---I might have spoken to him. I don't recall.

So what contact had you had with Mr Stavis in that regard?---Might be, might be just to congratulate him that he's got the job, I don't know. I don't recall exactly but all I can say is he was starting work and I, and this is an introduction to the other councillors and just a general discussion to see
20 what other issues that the other councillors have. Just a mutual meeting to discuss issues, that's all it was.

What's your memory of your first contact with Mr Stavis after he started work as director of planning?---Oh, maybe this is, maybe this is the, what we sent him.

Well, no, if you could just – leaving aside this email, 4 March, sitting there as you do now, what is your memory of your first contact with Mr Stavis after he started work as director of planning?---Could be the complaint to
30 him about the controls and the DCPs and the issues and the complaints and the delays and all the DAs that are sitting there the planning proposals been sitting there. There's lots of complaints and we wanted to make sure that he follows all those up.

But what is your memory?---That's my memory.

THE COMMISSIONER: So, what, you went to see him in his office in council and made those complaints?---Probably. I, I remember making complaints to him about – but where it was, I don't recall.
40

MR BUCHANAN: Was it on the phone or was it face-to-face with Mr Stavis.---I don't recall. Maybe face-to-face, maybe on the phone. It's irrelevant as far as I'm concerned. It's the complaint that I'm making. I, I don't recall.

How do you know that was the first contact you had with Mr Stavis?
---Because that's the, the, the, that's the complaint I would have put

forward. From, from memory, that would be a complaint that I would have made to him.

Now, before you compiled this list of issues that are in the email of 4 March, did you consult with anyone apart from George Vasil?---Who said I consulted with George Vasil?

10 All right. Who did you consult with before you sent this email?---Well, Con and I were sitting together doing it, Con Vasiliades.

You say that Con Vasiliades contributed to this?---Well, because he was, he would have been, it's his computer and it was sitting on his desk, not on the big desk, on his desk to type this up. He would have typed it for me.

Yes, but what consultation about the issues, the contents of the list of issues, did you have with Con Vasiliades?---Just things that were, comes to mind and we discuss it and we talk - - -

20 Whose mind? Yours or his?---Mine and his.

Which issue can you tell us was it that Mr Vasiliades contributed to?---I can't remember which one he is. It could have been, well, I'll, I'll just go through it. I'll just, can we go through it one by one?

Well, I'd just invite you - - -?---Because I can tell you.

30 - - - to read it and suggest to you that Mr Vasiliades had no special interest in any of them. What do you say?---I think it's incorrect because he was - - -

What's incorrect about that?---Because when someone's typing something up and, and you're, you're talking to him, discussing issues of concern to him, he's not going to be like a zombie. He's going to come up with some discussions and some point of view that he has while he's typing it. But something, it's normal. Just the wording, the changing, the thinking. That's, I don't see what's, what's behind your questioning on this.

40 Now, when you say in this email "we would like to discuss tomorrow night", to whom were you referring?---The councillors.

Which councillors?---The councillors were invited to attend.

And which councillors as at that stage were invited to attend?---I think the same councillors who supported the motion to, to remove Mr Montague.

The A Team?---The A Team, yeah.

And how did you know that those councillors, as well as you, would like to discuss those issues the next night?---Because I think messages were sent to them there was a meeting on.

Who sent that message?---Presumably I would have.

10 Well, do you remember sending one?---I don't recall but there was a, a discussion. I might have sent a text message to the A Team, as you recall, in order saying there's a meeting with Mr Montague, sorry, with Mr Stavis and Mr Montague, and these some of the points, the points we need to discuss. I don't recall.

Is it possible that you arranged the meeting by telephone or face-to-face, rather than sending a text message?---I don't recall.

But that is possible?---Anything is possible during that period of time, so I don't recall.

20 It's just that the Commission doesn't have before it evidence of you arranging the meeting with councillors, other than Councillor Azzi, by text. ---Well, how did they turn up?

Well, that's why I'm asking you. Is it possible - - -?---Well, that's what I'm saying, it is, that's what I said. It - - -

- - - that they turned up because you asked them to - - -?---Correct.

30 - - - on the telephone or in a face-to-face meeting?---Well, that's what I'm saying. I can't recall how I did it, but there was communications between them and that's why they turned up. So how it was, I don't recall.

You didn't have prior contact with other councillors about this list of issues, though, did you?---I just, this is my own point of view ideas and it's up to other councillors to put their ideas or, or support it or not support it. It's just a general discussion. It's just, just, these are just lists of ideas and concerns.

40 Were there councillors that you can identify for the Commission who had a particular interest in any one of these issues?---I think Councillor Adler had a lot of input into, into the discussion we had, and others put their point of view as, put their point of view across at that meeting we had with Mr Stavis.

Which particular issues did Mr Adler have interest in as at March 2015?---I don't recall but I recall he was, he was discussing things like, I think the Il Buco, sorry, not the, but there was things to do with, I'm just trying to – look, I'm not going guess, I can't recall. I don't recall.

Well, in fairness to you, the third last dot point reads, “Mark Adler’s motion, 11 December, 2014, re LEP/DCP review and forming a planning panel.”---Yep. That’s, that’s one of his, that could be it.

But you were interested in a planning panel being formed, weren’t you?---I like the idea, it’s a good idea.

And you were interested in a review of the DCP, weren’t you?---Yes.

10 And George Vasil was interested in a review of the DCP, wasn’t he?
---George, George Vasil used to complain about it as well, yeah.

And again, in fairness to you – I’m sorry, the third dot point from the top, “Lanes behind properties along Canterbury Road,” that was something that - - -?---I support.

But Mr Azzi supported?---He supports as well.

20 Apart from those, when you say, “The issues we would like to discuss with you tomorrow night,” you in fact meant that I would like discussed tomorrow night?---No, we.

That you wanted discussed the next night with councillors who attended?
---These are my point of views and, and this is my positions and the other councillors have their own and we’re going to discuss it with him.

30 Now, can I take you then to page 137, please, in volume 5. This is an email sent at 8.01pm on 4 March to Spiro Stavis. Bear in mind that the email from Con Vasiliades’s private email account that you had caused to be sent to you was sent at 3.51pm. So this is at 8.01pm and you can see that it starts slightly differently from the draft that you had caused to be sent to yourself. It reads, “Not sure if Jim Montague has told you that some of us would like to meet up with you to discuss issues of concern. The meeting is scheduled for tomorrow afternoon. However, some of the issues we want to discuss are as follows.” Do you see that?---Yep.

40 And then do you see that there are a number of the dot points, if not all of them, in the email that you arranged to be sent from Mr Vasiliades’s email account to you, reproduced in this email by you to Mr Stavis?---Yep.

When you said in the first line of the email of 8.01pm on 4 March, “Some of us,” again, you meant were conveying there, weren’t you, that there would be some councillors there but not all councillors?---Yeah, not all could make it, so - - -

And you were conveying that these were the issues that you want to discuss?---Yep.

And if I can go over the page - - -

THE COMMISSIONER: When you said not all of them could make it, it was only the A Team that was invited?---Yeah, but even them - - -

But even within the A Team, not all of them could make it?---Yes, yes.

MR BUCHANAN: There's an additional dot point right at the top of page 138, the aquatic and fitness centre, that wasn't on the previous email.---That was Councillor Adler's one.

Yes. So you – I'm sorry, that is?---That would be Councillor Adler's one.

I see, thank you.---Because he was close to that, things about the aquatic centre.

Thank you. Is it possible that you'd had a conversation with Councillor Adler by the time you sent this email at 8.01pm to Mr Stavis?---Most likely.

20 Then you said after the dot point listed, finished at the top of page 138, "I know the above is a big ask and you only being in the job for a very short time. However, we need to start planning now for the future. We need to be consistent and to create an even playing field for everyone. PS, I want to congratulate you on your appointment as director of planning and wish you all the success in your job. I know it's been a hard and at times difficult road to make it to the top, but I agree with Jim Montague's comment that you may surprise us all. Welcome to Canterbury." Do you see that?---(No Audible Reply)

30 When was it that Mr Montague commented that Mr Stavis may surprise everyone?---During this discussion (not transcribable)

Now, you said at the beginning of the email – sorry, if we could go back to the preceding page, page 137 – "Not sure if Jim Montague has told you." Does that mean that you had had a contact with Mr Montague before sending that email at 8.01pm about the meeting.---Most likely.

40 What contact had you had with Mr Montague about that?---Just to say that the, the A Team councillors want to meet up with him and the, the new director and to discuss these issues. It's just basically what it is. That's from memory.

And what did Mr Montague say?---Yeah, he was happy to, to start moving forward and just he wanted to put everything behind him and just move on so we can fix things up in Canterbury.

Now, the list of issues was – tell me if I'm wrong – the agenda, as far as you were concerned, for the meeting. Fair to say?---Yeah.

And is it fair to say that having regard to your email to Mr Stavis at 8.01pm, in particular when you said in the second page, "However, we need to start planning now for the future," et cetera, you were indicating, weren't you, that what you wanted to do was to help organise Mr Stavis's work plan as director of planning.---Nothing to do with him. It was just to do with our own ideas we put forward to him based on the experience that we've had and the problems we faced as a councillor.

10 But the purpose of organising the meeting and identifying the issues to be canvassed with Mr Stavis was to achieve the outcomes that you wanted to achieve on each of the dot point issues, wasn't it?---We just gave him our point of view in regards to the problems we faced, and it's up to him to perform on these things or, or to fix them up or not to fix them up, or to discuss them with the GM. But just general, these are general things that every councillor in Australia would do with their directors, and give them their point of view to discuss their issues and concerns that they have. There's nothing unusual about this. I don't understand where you're coming from on this.

20 Well, where I'm coming from is that this was a meeting held off council premises with a select number of councillors and the general manager and the director of planning about the – arguably – the director of planning's work plan, and some might say that that is quite unusual.---This is an unofficial meeting that's held after hours because the council building closes around 5.00, 5.30, and some councillors, we work, we're not a full-time councillors. We work. Some work. Some come late. Some come at certain times. And we always meet after hours. It's normal, because we can't meet in the council building after hours. Most of the time it's closed.

30 You see, in many other councils, given that you've raised the subject, the likelihood is that matters like these would be placed on the agenda of the City Development Committee.---This is just an introduction, introduction and general discussions.

And members of the public can attend meetings of the City Development Committee, can't they?---Correct.

40 And more to the point, meetings of the City Development Committee comprise meetings of all councillors, don't they?---Correct.

And notice is given to all councillors of the fact that such a meeting is to be held and of the agenda for the meeting, that's what happens, isn't it?
---Correct. We still move motions.

But this is different - - -?---No, it's not.

- - - because certain councillors were excluded, and it was not held in public.---This is an unofficial meeting. Now, we move official motions. If you, if you look at the council agenda business papers, you will see there's a lot of motions in there that reflects to what we're saying here. Official motions that were voted on. Things like the DCP changes and things like this. Even with, with Stavis, he can't just go and make decisions without coming back to council for a vote on it. So I don't understand where you're coming from.

10 But you wanted to get in early, didn't you? You wanted Mr Stavis to start work on these issues with the guidance that you and Mr Azzi would provide at this meeting at the Bulldogs Club on 5 March, 2015?---It has, it has, it has nothing to do with Mr Azzi and he, it's just an issue that we raised in regards to the problems that we, council was facing, to the complaints I've been receiving from the public, and we - - -

So is it - - -?--- - - - and we raised it. What's, what's wrong with that?

20 So is it fair to say that you were the one who provided the guidance on each of these issues at the meeting of 5 March, not Mr Azzi contributing?---I had ideas. These are – most of them are my ideas. They're ideas, unofficial ideas to be discussed unofficially with Stavis and Mr Montague, unofficially. We have the rights to unofficially meet and discuss at any time, anywhere we want.

30 Excuse me a moment. Can I ask whether we can provide Mr Hawatt with a copy, the hard copy of volume 5, in Exhibit 52? I want to ask you to take part in a comparison exercise between documents, and it just might be easier if you've got the hard copy in front of you. If you could have a look at page 135, that's the draft list of issues that were sent on Mr Vasiliades's phone, I'm sorry, Vasiliades's email account to you at 3.51 on 4 March.---Yep.

40 And then if you could go over, please, to page 131. What I want to suggest is – oh, I withdraw that. And you can take it from me that what I'm showing you, pages 131-134, is material that had been prepared by George Vasil. And what I want to suggest to you is that there is an overlap in the subject matter of issues that you identified in your 4 March email to yourself and this, these lists of issues that George Vasil had prepared, particularly on page 131. If you have a look, please, at, for example, the third dot point on page 135, "Lanes behind properties along Canterbury Road," do you see that?---Yep.

Excuse me a moment.---Sorry, which one? This is on 131, is it?

Yes, and then page 131, can you see the third paragraph, "Act on the lane proposals as per the resolution dated 23 October, 2014"?---Yeah.

Going back to page 135, the fourth dot point, “RMS requirements, see extraordinary meeting 2 October, 2014.”---Ah hmm.

Look at the first full paragraph on page 131, which reads, “Act on the resolutions of council meeting 2 October, 2014.” Do you see that?---Yep.

Then if you could go to the third last dot point on page 135, which reads, “Mark Adler’s motion 11 December, 2014, re LEP/DCP review and forming a planning panel.” If you look at the last full paragraph on page 10 131, it reads, “Set up a working group of councillors to conduct a review of the LEP and DCP of council as per the resolution of council dated 11 December, 2014.” Then in relation to the second-last dot point on page 135, “Mark Adler’s motion, 11 December 2014 re LEP/DCP review and forming a planning panel.” I’m sorry, my mistake. The second-last dot point on page 135, “Council resolution re separation DCP into various chapters for different zones and uses.” And then look at page 131. Third-last paragraph or the third full paragraph, “Act on DCP resolution dated 23 October, 2014, relating to DCP chapters.” Are you able to assist us as to how it would appear to be that there is a degree of overlap between the subjects which 20 George Vasil has said were issues of concern to him and the subjects which you indicated in your draft email to Spiro Stavis, at 3.51pm on 4 March, were issues that you wanted to raise with him?---Sorry, if you understand planning, the planning issues that we had with Canterbury, all these points – whether it’s coming from whatever George is thinking of, Mr Vasil, or whatever I’m thinking of or whatever Con’s thinking of or Councillor Adler – it all fits in, into the same ideas within planning. So the thoughts and the ideas are all similar to each other. It’s not, nothing, like, that you throw out of the box and it’s completely unusual. The discussions that we have, whether it’s on RMS, is something that a lot of people talk about. 30 Something in regards to the problems with planning, everybody talks about it. So if I come up with an idea that George, Mr Vasil, has it, well, so be it. It doesn’t mean there’s a conspiracy. We all have similar ideas. We’re all human beings. We all have the same issues and problems and the same discussions. This is general points of view coming out of various people. There’s nothing wrong with that.

It’s reasonable, isn’t it, for the Commission to conclude that your email to yourself at 3.51pm on 4 March, 2015 – page 135 of volume 5 – was at least in part inspired by input from George Vasil?---Everyone talks. If I listen to 40 people, they can complain or come up with ideas, and it’s up to me to accept those ideas or not to accept those ideas. That’s normal. This is very normal. You get suggestions and ideas from people. Sometimes they’re good. Sometimes they’re no good. It’s up to the individual to accept it or not accept it. They’re still my ideas.

And would it be fair to say that in convening this meeting of councillors in the A Team together with Mr Stavis and Mr Montague, you wanted to influence the work that the director of planning did and the direction of that

work without interference from councillors who were not on the A Team.
---I think you're reading too many UFO stories, Mr Buchanan.

THE COMMISSIONER: No - - -

10 THE WITNESS: There's no interference with anyone. It's a general discussions we've had. It's a general point of views we've had. It's a general opinion we've had. It's not official. It hasn't gone to council for a resolution to be formally accepted. So whatever we discussed outside council, it's all unofficial and it's all general discussions.

THE COMMISSIONER: Mr Hawatt, please don't answer with a gratuitous comment. Listen to the question and answer the question.

MR BUCHANAN: The effect of having the meeting you had on 5 March at the Bulldogs Club with Mr Montague and Mr Stavis and the councillors on your A Team was that you influenced the work that Mr Stavis did or was going to do without interference from other councillors, isn't that the case?
---There was no influence. No, that's not the case.

20

Now, if I can take you to page 137 in volume 5. You can see that at the top of that page there is a response from Mr Stavis to your email to him, setting out the list of issues that you wanted discussed, saying, "I will be attending tonight's meeting with Jim and have noted the issues you would like to discuss." Do you see that?---Yes.

You invited Mr Montague to attend yourself, is that right?---It must be, yeah, I don't know, I don't recall who invited him and how he was invited.

30 Well, I just want to take a step back from that, then, because you see there are a number of different possibilities. One is that you asked Mr Montague whether Stavis could attend such a meeting and he consented and in some way or form it came to pass that he also attended. Another is that you actually invited Mr Montague to attend as well as Mr Stavis. So that's why I'm asking you, you see?---I don't, I don't recall. Honestly, I don't recall how it was done.

40 I'll ask it another way to see if it makes any difference to you. Do you know why Jim Montague attended the meeting at the Bulldogs Club with Mr Stavis and your councillors on 5 March?---Unless he wanted to find out what's, what's happening and to make sure it's, everything is above board. I don't, I don't recall.

Is it possible that you wanted Mr Montague to attend to make sure that the issues that were taken up with Mr Stavis were – I'm sorry, that Mr Montague was aware of the issues that you wanted to take up with Mr Stavis?---I think Mr Montague's been aware of those issues way before Mr

Stavis even came to, to apply for the position. So there's nothing new to Mr Montague.

But what would have been new to Mr Montague was that there was a particular shopping list of issues that you were raising with Mr Stavis. ---There weren't a shopping list, they were discussion lists.

10 Very good. A discussion list of issues that you were raising with Mr Stavis. Mr Montague wouldn't be aware of that unless you copied him in on it as Mr Stavis copied him in at 12.25pm on 5 March.---These, these discussion issues we've had, we've discussed them with Mr Montague before and the reason why there was changes in the planning and the complaints that were made, so they were all discussed before. Nothing new.

What time did the meeting commence?---I don't recall. It was after hours, I don't recall.

Where did it take place at the Bulldogs Club?---I think so, I think so, maybe.

20 But where in the club?---What, in the, in the club itself.

Yes, but can you recall where in the club?---I don't recall exactly. It's, the, the building's all, it's all been renovated. I, I just can't, can't remember. (not transcribable) what's new but the old club, the old part of it, that's all changed. I, I, just don't recall.

Were refreshments consumed during the meeting?---Oh, there might have been come coffee and, and, and drinks.

30 Why did the meeting occur – I withdraw that. Did the meeting occur in the last afternoon/evening?---I think it could have been late afternoon, maybe, to evening, maybe early evening. I don't recall.

Why did it not take place during the daytime?---Because people who work, we're not full-time councillors, we work.

And who attended?---Oh, I don't recall how many turned up but from memory, I'm just going to guess - - -

40 No, no. Please, no guesses if you don't mind. Who do you remember attended?---I, I remember Council Adler, myself, Azzi, I think Nam and Con and Fadwa Kebbe, that's from memory.

Fadwa Kebbe?---Yeah, I think so, yeah. That's from memory. I just - - -

And what happened at the meeting?---It was just an introduction to, to Mr Stavis and, and then it's just an open dialogue to have, each one with a point

of view on, on what they feel the issues are facing them and the complaints that they receive from, from the public.

Were all of the issues that you identified in your email to Mr Stavis of 4 March canvassed?---Oh, look, I don't recall specifically going through individual ones. He had a copy of it and it, the rest of it was just an open discussion.

10 Did Mr Stavis have any other document that you saw?---He might have, he might have had something. He did. I think it was proposals in regards to the work that the director, what's-his-name, before him was working on.

THE COMMISSIONER: Mr Occhiuzzi?---Mr Occhiuzzi, yeah, sorry. And he had some planning time, time, timetable or something like that if I recall.

MR BUCHANAN: A table?---Like a timetable of work been progressing.

20 Like a spreadsheet sort of thing?---Something like that. There was some, with coloured, because I remember it was coloured, but I don't recall exactly what it, what's in there, but there was something, yes. I think there was something in there.

And did he provide copies to everyone or provide, did you get a copy? What happened in relation to that copy?---I think, I think, I, I think Mr, sorry, Marcelo was, gave us copies of those before. That's why I remember the coloured one. The council had copies. I remember Marcelo giving me one before even Stavis had one.

30 And did you see the same document at this meeting?---I think it's the same one. That's why I remember it.

Could Mr Hawatt be shown Exhibit 208, please. Are you able to read enough of what is on the screen in front of you now to see that this is a table with colours on it with various issues identified, together with dot points underneath each of them which appear to relate to each of the issues identified?---Yeah.

Is this the table?---Yeah, that's the one.

40 And where had you first seen it?---I think Marcelo gave it to us.

At council?---At council.

At a meeting of council or the CDC?---Look, I don't recall when, but I remember he gave me a copy of that.

Is it possible that Mr Stavis gave you a copy of it?---No, I had it before Mr Stavis (not transcribable)

Did Mr Stavis refer to this table at the meeting?---He just said, yes, I've got this and I understand where you're coming from in regard to delays. He says I've got a, I can see, he must have, he must have followed up the email that I sent him about the delays and printed that out that we already had copies of, just to show that he's doing his work.

And which one of them concerned delays?---I think all of them.

- 10 The word delay isn't leaping out at me from the table. It doesn't appear to get a reference.---There's been a lot of complaints from, from people who would call and, and ring up and, and complain about it, but there was definitely complaints being made to us from the, from the public in regards to some of these planning proposals, the delays on them.

And most of these were large commercial properties, weren't they?---I don't, I'd have to go through individually. I don't recall which is, what sizes they are, but most, most planning proposals are reasonably, reasonably big.

20

So they were development proponents who were making these complaints to you?---Applicants. Could have been planning, could be, I just can't recall, but there was a lot of complaints made.

But most of them are in respect of commercial properties or properties in which there was an intention to try to carry out mixed-use development. ---Probably, I can't recall.

- 30 This particular exhibit was found in Mr Vasil's office in Ray White Real Estate Earlwood when a search warrant was executed there. Do you know how it came to be there?---Con might have had a copy, I don't know, I just, I, I wouldn't have a clue.

But what would it be doing in Mr Vasil's office, George Vasil's office? ---Oh, it could have, it, I, oh, you'll have to ask him. I, I don't know.

Well, we did. He said you gave it to him.---I gave it to him? I don't recall giving it to him.

- 40 Excuse me a moment. What I want to point out to you is that in the second column from the right, where the cursor is moving at the moment at the top, it's headed Review of Canterbury LEP 2012 Resolution, and then it identifies a resolution that's dated 11 December, 2014, do you see that? ---Yeah.

Well, Mr Occhiuzzi couldn't have given you this document, could he, because that resolution was passed after he had gone.---Look, I don't recall. He might have updated it. I just don't recall. As I said, I've seen it before.

Well, the only person who could have updated it is a member of staff of council who knew about it. It was a council document.---Unless the acting director might have updated it when we complained, I just, I don't, can't recall. I just don't recall (not transcribable)

And it might have been given to Mr Stavis, in order to brief him as to what was on his plate.---Correct, but this is definitely was created by Mr Occhiuzzi's document.

10

Well, except that I've just pointed out to you that it couldn't have been. ---No, but updated - - -

It's physically impossible for it to have been created by Occhiuzzi.---It was created originally, but I think it's updated by the acting director at the time.

20

But the particular version that was found at Ray White Real Estate was obtained after Mr Occhiuzzi had gone, and the evidence before the Commission is that you gave it to George Vasil. And so my question is, why did you give this document to George Vasil?---I don't recall giving it to him.

That's - I withdraw that. Do you accept that you gave it to him?---I don't recall giving it to him.

But you can accept that something happened, even if you don't recall it, Mr Hawatt.---You could - - -

30

MR DREWETT: Well, I object to that.

THE WITNESS: I just can't recall.

40

MR DREWETT: Mr Hawatt's given evidence that he can't recall it. It's the manner of the questions that are being asked. When my client says he can't recall something, putting to him a proposition as to whether or not he accepts it or not, my respectful submission, anything that flows from that is going to have absolutely no probative value. It's not going to assist the Commission at all. His evidence is he can't recall it. It may be a matter for submissions by Counsel Assisting at the appropriate stage, but that's his evidence.

THE COMMISSIONER: Mr Buchanan?

MR BUCHANAN: Commissioner, a witness can draw inferences, just like the Commission can, from facts that are known or placed before the witness, even if they have no memory of something. For example, they might see a, a document and appreciate that it's their own document, even though they have absolutely no memory of it whatsoever. And in that case, they can

accept that it is their document, or in this particular case, accept that the document was not created by Mr Occhiuzzi, and he might also accept, if he's told that George Vasil says that he, Mr Hawatt, gave it to George Vasil, that Mr Hawatt did give it to George Vasil.

10 THE COMMISSIONER: There were two propositions there. The first one, Mr Hawatt, is looking at the document now and being shown that there's a reference to a resolution passed in December 2014, after Mr Occhiuzzi left. Do you accept that, at a minimum, this document must have been updated by somebody other than Mr Occhiuzzi?---Somebody, maybe the acting director.

What, Ms Dawson?---Ms Dawson.

Or Mr Stavis? That's a possibility?---I'm not sure whether he had the time to do that. I just, doesn't make sense.

20 The next proposition was that, given your relationship with Mr Vasil, that you often went to the real estate agency and you had discussions with him about planning matters – because as we've heard, he had a great interest in it – do you accept that you might have given this to him?---I mean, I, I don't recall. I, I'll tell you why I don't recall, because I had that document before. I remember there was – I've got it somewhere. Like, it's, it's somewhere in the back in the mind. I can visualise the colours, and it's somewhere in, in a file that I've seen. But why would I give it to him when even Mr Stavis had it at the meeting with him, so therefore it would have been, like, easily available? It's not like it's restricted document.

30 Where would it be easily available if it's an internal council - - -?---Yeah, but they both had copies of it before, so other councillors would have copies of it.

40 Yes, but that would suggest that they're distributing it, not – sorry. The answer you just gave suggested that it might have been available for open access on the website.---No, no. Sometimes we get documents from directors if we complained about something and say look, this is the date, this is what's happening, look, look, at this. So it's available to the councillors and that's why I got a copy of it, some, that's why I remember it. So other councillors would have had it, so I can't see how George Vasil was waiting for me to get it off him.

When you say would have, is that your recollection or are you just talking about - - -?---That's my recollection that I - - -

- - - that other councillors received a copy of it?---Well, if I had it, they would have had it, that's all I can remember.

Mr Buchanan.

MR BUCHANAN: Commissioner. Did you give this table to George Vasil after the meeting with Spiro Stavis and councillors and Mr Montague on 5 March, 2015?---I don't recall and I don't recall even Mr Stavis giving us, distributing the copies to anyone. I don't, I don't, I don't recall.

10 But it would, in the period of time that you knew Mr Stavis as director of planning, it wasn't unusual for him to give you a document without it being given other councillors, as far as you knew, was it?---Correct. He would have given it to, it's available to everyone.

Well, no, just, if you could listen to my question. You had multiple dealings with Spiro Stavis during the period of time in 2015-16 that he was director of planning at Canterbury, didn't you?---Further down the track, yes.

And in that time, once he had started work on 2 March, 2015, he gave you documents from time to time, didn't he?---I mean, documents like what?

20 Well, I'm asking you.---I mean, if I requested documents, the only documents that - - -

Did he or did he not give you documents from time to time?---Depends what, I don't know what documents you're talking - - -

Please, please. Any document at all.---Any documents, yeah, of course.

30 Did he ever give you a document, at all, while he was director of planning? ---If I made a request for something, most likely if it's available he would give it to me.

Now, did you take or get this document off Mr Stavis around March of 2015?---I can't recall.

The table was a document that was confidential to councillors, wasn't it, confidential to staff and councillors?---It's mainly councillors, yeah, and staff, yeah.

40 You were not at liberty to provide it to a third party, were you?---I don't recall giving it to Mr Vasil at all.

THE COMMISSIONER: But do you agree with that proposition, that you weren't at liberty to provide that document to an outsider?---Yes, it's, I, I don't normally give confidential documents to anyone.

MR BUCHANAN: And you accept that this was a document that was confidential to staff and councillors, don't you?---I accept it's a confidential document.

You provided it to George Vasil, I suggest, because he was your ally in the work you did at council, in relation to planning and development.---That's, that's incorrect.

I'm sorry, that is?---Incorrect.

Can you give any other reason as to why you would have provided it to him?

10 MR DREWETT: I object to that. My client has given his evidence in relation to this matter, Commissioner. He has said he cannot recall giving this document to George Vasil. Now, the question has been asked not once or twice or perhaps even three or four times. It is repeatedly put to him, one presumes in an attempt to elicit a different answer from that. In my respectful submission, the repeated asking of the same question is oppressive and should not be allowed in relation to not just this question but any question that's framed in a similar way from this moment on. In my respectful submission, there is a trend that is emerging here, with the greatest of respect to my learned friend, where the same question is being
20 put over and over and over and over again to get a different answer, and it's got to stop in my respectful submission.

THE COMMISSIONER: Mr Buchanan?

MR BUCHANAN: Commissioner, the question, as I recall it, is "Can you give the Commission any other reason that you would have provided this document to Mr Vasil?" The question can be answered without an acceptance that he has a memory of doing so, he hasn't denied that he did, and accordingly we have moved on to another subject. We have moved on to if it is not the case that the reason that it would have been or could have
30 been provided that George Vasil was the witness's ally in organising the planning and development business of council, then is there any other reason that he would like to provide for providing it, even if he doesn't remember providing it? In my submission, there's no logical inconsistency in the question that's being asked. Yes, I can't remember doing it, but let's assume I did.

THE COMMISSIONER: Mr Drewett, my view was it was a different question. I'm going to allow it to be put on that basis. The weight of any
40 answer is obviously a matter for me. But if on that basis, accepting you can't remember whether you did give it to Mr Vasil, but what possible reason could there be, might elicit something that helps me or it may not. But I take your point about the probative value, but that will be something for down the track.

MR DREWETT: Thank you, Commissioner.

MR BUCHANAN: Can you give the Commission any reason, other than that George Vasil was your ally in organising the planning and development business of council, for providing a document like this to Mr Vasil?

---George is an adviser to not just myself, to a lot of councillors past and present. This document, I don't see what benefit, whether he has it or he doesn't have it, I don't see what benefit that's going to give George Vasil. So I don't recall.

10 The document actually provides a probe of intelligence as to what council is looking at in relation to a series of development proposals or development projects, doesn't it?---Well, what's the benefits to George on these ones?

THE COMMISSIONER: I think step number one is do you agree with that proposition?---Yeah, there's information in there, information about what's happening.

MR BUCHANAN: And it was thus available to anyone who had it to provide that information to anyone else who might have an interest in it.

20 ---Could be the case. Could be.

It would be of interest to know whether, for example, council was obtaining legal advice on a particular matter.---It's, there's nothing, can I just clarify something, Mr Buchanan? There is absolutely nothing to stop any councillor from referring to any one of these developments. If someone rings up, somebody rings me up regarding one of the ones in there, for example, and he says, "What's happening with my development?" I send an email to the director, he will come back and give us that information in there in regards to the progress of that development. So it is available if someone wants it.

30 Unless the information is confidential information, such as legally privileged information.---Well, it's, it is, no, this is available. It's not legally privileged. This is available to the planners, and any information that anyone seeks, they will give you that information. And if you look at my emails, if I make an inquiry regarding any one of those, I get a feedback of the progress of it. So it's available. So I don't understand where the, the issue is in regards to Mr Vasil. Anybody could get the, their specific information. They can still get it if they make an inquiry. It's not hidden from them.

40 And quite apart from Mr Vasil's interest and involvement in the affairs of Canterbury Council, he was a real estate agent by profession, was he not?
---He was involved in sales, right.

He was a real estate agent by profession, wasn't he?---He was a real estate, but, but, yeah, but from what I know him, he's not directly involved in sales.

And so the information in this document is of considerable value to a real estate agent operating in the area.---Oh, that's, that's - - -

Isn't that the case?---That's nonsense, really, that's, that's not the case.

And can I point to, if you look at cell number 5 in the left-hand column, where the cursor is, in relation to a property at Trevenar, T-r-e-v-e-n-a-r, Street, can you see that the intelligence that council is seeking legal advice in relation to a particular aspect of that matter is disclosed, but that it has not
10 been reported to council because it says, "Will report to council shortly"?
---Yeah, but if I, as I said, if I make an inquiry, that information will be given to me and I pass it onto the person who called in that inquiry because there's nothing specific about the legal. It's just a general, yes, we're waiting on legal response and we'll give you the rest of the feedback, but there's nothing specific about what is the actual response legally. It's just a general saying there is an inquiry, a legal, we're waiting on a legal response, and that's the way we respond to the, to the people who call us.

20 THE COMMISSIONER: But the answer you've given is that if the person seeking the DA or the proposal contacted you, you would contact the planning department, get some information and tell them.---Yeah.

That's quite different from an outsider who, for example, runs a real estate agency, or an architect or a builder or somebody like that, trying to get something which may be seen as inside information to assist their business. It seems different to the example that you've given of if one of the proponents contacted me I would find out this information. Do you accept that difference?---I accept it, yes, Commissioner, yes, I do. But that's why in regards to Mr Vasil I don't see what benefits he's, he's got out of this
30 thing, even if he's got, I mean, I don't recall giving it to him, and that's my honest opinion, but I don't see what are the benefits to him because George Vasil, from the history that I've known him, he's never abused or used anything in regards to benefit himself. George is a standalone person. He's independent. He supports and helps people with, with issues in regards to planning, and he's helped people in the past, and I can name you a lot of people he's, he's supported and, and the future, but he, he has not taken advantage of anyone. I don't recall this.

40 MR BUCHANAN: So was it usual for you to provide confidential council documents like this to George Vasil?---I don't think there's a benefit. Well, I don't think I would, I need to give it to him. There's no need for it. So I, I just, no, I don't, I don't recall. I'm going to say it again.

Was it usual or was it unusual for you to provide confidential council documents to George Vasil?---Unusual.

How often did it happen?---I don't supply him with documents. His son is a councillor. Why asking me?

How often did it happen, Mr Hawatt?---Unusual for what? Giving him documents?

Providing him with confidential council documents. How often did that happen?---I don't provide him with confidential documents.

You said it was unusual.---Unusual for him.

10 No, for you to provide confidential council documents to George Vasil. ---That's right. Unusual. I wouldn't do it.

And my question to you is, how many times did it happen?---None.

You said it was unusual. Does that mean once - - -?---No, no.

- - - five times? 10 times?---Unusual is like it's, it's, doesn't happen. That to me is unusual. I wouldn't, it's not, it's not a thing that I would do.

20 Why was it unusual? Why is it a thing that you wouldn't do?---Because there's, there's no need for it. I just, there's no need for me to give him this type of document.

Unless George Vasil is your ally in organising the planning development business of council, in which case it certainly did advantage him and it would advantage anyone else who was one of your allies in that - - -?---No, they, George has been around for many years. I don't see him being advantaged from anything he's done in the past. He was there before I even came to council. So I don't see him, I haven't seen him advantaging
30 himself for anything in regards to council planning and he is an adviser and you, so he had a lot of knowledge and we just seek knowledge from him and he helps in that area. But I don't recall giving it to him, I have to keep repeating that.

Now, could you please go back to your recollection of the meeting at Canterbury – sorry, at the Bulldogs Leagues Club on 5 March, 2015. The councillors and yourself and Mr Montague and Mr Stavis sat around a table, did you? How was it organised?---I'm just trying to remember. It was a long table. Like, it was, could be in the, could have been in the old dining,
40 the old dining room, the old one, before they renovated it, where there was a long table where we all sat, although I could be wrong.

And of all the people present, who spoke the most?---I think everybody, everybody spoke generally.

Was it possibly Mr Stavis who was called upon to respond to the various items in the list that you had sent him?---I don't think there was, there was a jus a general discussion, introduction, points of view put, put across and

that's it. I don't think we've even discussed the specific points on even the email I sent him.

Well, what was the point of you sending - - -?---It's an introduction.

10 - - - that email saying that some of the issues you – using the word “we” – want to discuss were, and then you set them out?---Because I, I gave it to him and he said, “Yes, I got it. Thank you very much.” I'm not going to go specifically and talk to him about every particular item. He said, “I will look at it and I'll come back to you.”

But you're making all of the evidence up as you sit there in the witness box.---No, no. That's specifically how it would have happened from, from common sense and logic saying why should I, I've sent him something, he's got it, and it's up to him to respond on these particular items later on. This is an introductory, not a specifically to discuss any specific items or issues. Just general discussion to introduce himself. That's all it was.

20 What did he say to introduce himself?---He was, he spoke about, thank you, this is, I want to do, do, do a good job for the council. I understand the planning issues that you face, I'm going to, I'm going to do the, the job. Just, just general, just general over coffee.

30 Which of the issues that you identified in your email to him of 4 March did he speak to?---I don't recall what specific ones he responded to. All I can recall is he has that, the email from me and it, and we didn't go through discussing my email. Other councillors would have put in, it wasn't that long of a meeting by the way and it was quite short. It would have been maybe a maximum of an hour, half an hour, I don't recall, but there was nothing specific. I, I don't understand where you're coming from on this. It's frustrating.

40 Well, where I'm coming from is your email which sets out the business for the meeting which is very specific and I'm trying to understand if you had told Mr Stavis that you wanted to discuss those specific matters, why it is that there was no discussion about those specific matters?---Why should I when he has my email, he has got my point of view sitting there on his desk. Why should he come and discuss it when he doesn't understand what's going on?

Were any other issues canvassed at the meeting?---I don't recall.

Was there any discussion about Mark Adler's motion of 11 December, 2014 re LEP/DCP review and forming a planning panel?---I don't recall.

If we could show Mr Hawatt, please, volume 9 in Exhibit 52, page 96? If we could go to the bottom of that page, or the second half of that page,

please, and can you see that this is an email from Con Vasiliades to Spiro Stavis on 6 March, 2015, the next day?---Yep.

He says, “It was a pleasure meeting you for the first time last night at the club. Thank you for the very informative planning information. Once the planning panel is set up, we can have more informal discussions and set up clear planning directions for council.” And I’ll stop there. It would seem therefore that the planning panel was discussed at the meeting.---Could have been.

10

What - - -?---I don’t recall.

Well, now that you read the relatively contemporaneous email of Con Vasiliades indicating that it was, does that refresh your recollection as to what was said on the subject of the planning panel?---Well, it doesn’t. I still can’t recall it.

You had an interest in a planning panel, didn’t you?---Oh, the, I’m, I was the deputy chair of the city’s Planning Committee.

20

Yes.---Yeah, so - - -

But you meant something different when the words “planning panel” were used, didn’t you?---Yes. We were looking - - -

What did you mean?---Well, similar to the ones that Hurstville Council had, where they got their own professional architects and, and designers, people can come up, can look at a, a DA with a, a different point of view in regards before it goes to the planners. And these experts, that’s what I was looking, putting some panels with experts to, to look at the DAs that come to the council.

30

And was it your thinking at this time that councillors would be involved in that process, that is to say, be a member of the panel?---Maybe a few, a couple of councillors, mmm, just like any committee, you have, you don’t have all the councillors (not transcribable) have independent people from outside with point of view, and of course you’ve got to have somebody representing the council. That’s normal.

40

Now, Mr Vasiliades told Mr Stavis in this email of 6 March, 2015, “Once the planning panel is set up, we can have more informal discussions and set up clear planning directions for council.” Would it be fair to say that at the meeting on 5 March what was discussed was proposed planning directions for council?---I don’t recall what was discussed. All I can recall is what I sent, the, the, the email to him, and other councillors have their point of view. I don’t control general points of views of others. I don’t recall.

And at the meeting at the club, thinking back on it now, was there any outcome of that meeting?---There was, it's, was an informal meeting. There's no outcome.

Was there a consensus of those present though, about anything, by the end of the meeting?---It was an informal meeting.

Yes, that doesn't mean to say there wasn't a consensus.---It was, was just, it was, it, it - - -

10

It's possible to arrive at a consensus in an informal meeting.---It was an introduction to Spiro. That's all it was, with points of views of various councillors. There's nothing to come with a finalising anything. There's nothing to finalise. It just point of view, he'll come back, and he'll follow up on some of these points that you raise. Like any, any enquiry that we normally make.

Had there been such a meeting held with Marcelo Occhiuzzi when he started as director of planning?---I used to meet him all the time.

20

Had there been a meeting like this, an informal meeting, of select councillors with the general manager and the newly minted director of planning when that person was Marcelo Occhiuzzi?---I don't, I don't recall.

It is possible that there was no such meeting?---I don't recall. But I used to meet him all the time.

30

You were, weren't you, in organising and taking part in this meeting, endeavouring in some particular respects to control and direct the affairs of council, weren't you? Namely the planning and development affairs. ---That's totally incorrect.

What's incorrect about it?---I have a point of view, my own independent point of view, it's not anything else, and I can put my point of view like any other person and other councillor. There is no pressure being applied – and I know what you're trying to do – there is no intimidations or pressures or anything to force Mr Stavis to do the wrong thing. None.

40

Did anyone else provide an agenda for this meeting or organise it?---It was a very general, open discussions. Nothing specific.

You were the only person who provided an agenda and organised it, weren't you?---I sent him my points of views of the concerns that I have, general. It's up to him to respond to.

By organising and participating in this information on 5 March, 2015, you were not acting honestly in the discharge of your functions and duties as a councillor, were you?---This is ridiculous.

THE COMMISSIONER: No, Mr Hawatt, please.---Come on, no. He's insulting me, Commissioner.

No, Mr Hawatt, Mr Buchanan is putting to you particular questions and propositions to give you an opportunity to respond. If you disagree with that proposition, state that. Please don't - - -?---All right.

10 - - - put gratuitous comments.---I agree with you, Commissioner. I disagree.

MR BUCHANAN: Why, in that case, did you not ensure that all councillors were invited?---This was a general, open discussions with the A Team.

But it wasn't open. It was closed. The public were deprived of the opportunity of even knowing that it was taking place, let alone - - -?---This was - - -

20 - - - what the content of the meeting was.---We have informal meetings all the time. The public do not attend informal meetings outside council.

And it was not a councillor workshop, was it?---It was an informal, casual meeting.

Can you answer my question, though? It was not a councillor workshop, was it?---No. No, of course not. It would have been in council building.

30 I'm going to change the subject now, if I may, Mr Hawatt, to a development application in respect of a property known as 23 Willeroo Street, Lakemba. You recall, do you, a development application for a property at 23 Willeroo Street, Lakemba?---I recall from the transcripts I read, yeah.

Well, do you mean to say you have no recollection of having any contact with anyone ever about a project to carry out a development on that site? ---That would have been an inquiry that came through like, like any other time - - -

40 No, no. My question is, do you mean to say you have no memory at all of ever being involved?---I, I made, I made inquiries on behalf of the, the person who called me at the time. It would have been my son-in-law.

So can you tell us please, what happened, what was your involvement in the processing of the development application for that property?---I was told there was delays and there was concerns it's taking too long, and I made the inquiries to see what's happening with it, like I normally do with any other, anyone who calls me, and from my understanding it ended up going to the courts to resolve that issue. So council did not resolve it. It went to court to mediate the, the result. So my inquiry would have been like in total maybe

15 minutes of emails and correspondence, like any other small inquiry that I get in that regard.

And apart from the fact that the proponent of the development was your son-in-law, was there any difference between your involvement in that matter before council and other matters before council of a development application or planning proposal nature in which you got involved?---I treat everyone the same. I treat them exactly the same. No difference. That's why it ended up going to, to the courts because I couldn't help him, so it went to courts. Doesn't matter how powerful everybody says I was, it went to court. I couldn't do anything.

But you did do things even when it was at court, didn't you?---I made inquiries and tried to minimise – I always do that – minimise any expense, court expense. At the end of the day, it didn't happen. It went to, to them to make a decision.

And what was the outcome?---I don't know. Whatever the, the mediation was. I don't recall. I must have gave it to them through the mediation from the courts. Nothing to do with me.

Did you ever hear from anyone what the outcome was?---Look, maybe. My son-in-law might have said that the courts, it's with the courts and they're going to resolve it so there's nothing I can do about it.

And what was the problem, what were the issues with that site?---Look, I don't, I didn't, I really didn't do that much involved in it, just an inquiry. I don't even recall what the problem was and it wasn't, I think my, my communication was with George Gouvatsos who was the manager (planning) and after that it went to the court discussion so I just don't recall what it was.

Did you have any contact with Spiro Stavris in relation to that DA?---I don't recall. I don't recall. Might have sent him a message. I don't recall.

What was the nature of the DA, what was the nature of the development proposed?---I think from memory it's affordable housing.

Did your son-in-law never tell you the nature of the development proposed?---I, I didn't know, he just said he had issues and I made the inquiry.

And your son-in-law was Talal El Badar?---Correct.

How did he get you involved?---He doesn't normally call me actually but just he - - -

No, please, how did he get you involved?---He just ask me, maybe he said, I think he was complaining (not transcribable) I think he was complaining that council is going to go to court because council is not doing the right thing and I said what are you doing? I'm going to take it to court. I said just let me find out what's going on. I'll make an inquiry. I sent the inquiry through and the responses I got eventually wasn't, wasn't any helpful so went back to the, to the courts to, to make the final decision.

10 And did you have an understanding about why it went to court, the basis at which it went to court?---Oh, he complained about something. I don't remember. I didn't sort of take it too serious. I didn't go into too much details because he was my son-in-law.

What was the significance of the fact that Talal El Badar was your son-in-law in this project?---Oh, just he's one of the, he is one of the partners in there and I just tried to make the inquiry to try and, to say look, I did it and there's nothing more I can do.

20 No, I'm sorry, what I'm doing is picking up on the answer you gave a moment ago when you seemed to indicate that there was some reticence on your part to be involved because he was your son-in-law.---I just made an inquiry like I would do with anybody else, just to appease him.

Yes, but did you refrain from doing something or did you confine what you did to a certain type of contact because Talal was your son-in-law?---No, I just did a just basic inquiry for him to find out what's going on and to stop it from going to court if, if there was an issue that can be resolved, that's all.

30 Was there any significance to your mind about you getting involved in this DA given that Talal El Badar as you understood it was at least a co-developer proponent and was also your son-in-law, was also related to you?---No, just to me it was just a basic inquiry.

Yes, but there's no significance. In other words, as far as you're concerned the fact that the person upon whose behalf you were doing whatever you did was related to you was entirely neither nor there as far as you're concerned. Is that right?---That's right, yeah. Nothing, nothing more, nothing less.

40 And so are you saying that you would take the same approach when it came to the question of whether you would declare an interest at council if the matter came before council?---Yeah, I would have declared an interest if it came up, yeah.

You would have declared an interest?---Yes.

Why would you have declared an interest?---Because I made an inquiry on his behalf.

No, no, no. Why would you - - -?---Because he was related to me.

- - - have declared an interest?---Because he's related to me.

And so there is some significance in your mind to the fact that you were getting involved in a project where your son-in-law was one of the proponents?---I was doing an inquiry to find out what the issues were, that's all.

10 Yes, but please if you could listen to my question. What I'm trying to focus on is, this was not your average third-party development proponent who was not related to you, this was a person who was married to your daughter.
---Yeah, that's right.

Was that of any significance to you?---To me, no it wasn't. I didn't think - -
-

20 It wasn't of any significance to you in relation to getting involved in how that DA was processed?---It wasn't because it was nothing that I, that I did, that extent, it's just an enquiry, a basic enquiry to find out what's going on.

But you told us that you would have declared that a proponent was your son-in-law if it had come before council?---If someone, of course, if it's, if it's my, even if I didn't do anything, I would have declared it.

Why?---Because he was my son-in-law. That's, that's what's required.

30 Yes, but why? Why would you declare that?---Because that's what required under the, under the code of conduct, you need to declare interests if you have some, some relative.

The code of conduct doesn't say that if you have a son-in-law who is a proponent, you must declare that that person is related to you. You know that.---I would have, I would have anyway.

40 Yes, but I'm trying to understand your thinking as to why it would be necessary or desirable that if the matter came before council, if the man was related to you, you should declare it? What is it that, as far as you understood at the time, meant that that required you to declare that interest?
---In order to say, to show that there's an arm's length from him.

You didn't have any understanding about conflict of interest, is that right, Mr Hawatt?---There was no conflict, there was no benefits at all for me to, in that regard. Why, why should it be conflict?

But did you have any understanding about potential for conflict of interest?
---There was no conflict of interest at the time.

THE COMMISSIONER: But I think you're being asked about the potential for a conflict of interest.---If, if, if there was, if there was something that I was going to benefit out of, there would have been a conflict of interest but I didn't see any.

MR BUCHANAN: What if a relative of yours was going to benefit from your decision as to how you would vote? Is that something that could raise the potential for a conflict of interest?---But I haven't, it went to court. I haven't made any - - -

10

Please, please, please. I'm just asking you generally speaking.---I would have raised it anyway, even if I, even if there was no conflict of interest or conflict, I would have raised as a, as a, as a conflict of interest, what - - -

20

But you haven't indicated to us that you had any understanding as to why you needed to do that, and I suggested to you that it was because there was potential for a conflict of interest but you don't accept that.---It's just, it's, we have a, in council, we have, if, if in doubt, if in doubt, declare an interest. That's always been in council. So if there's a doubt in your mind, it's best to declare an interest. There was a doubt in my mind and I would declare interest. That's all it is.

And what would the doubt be about?---Not knowing whether there is a conflict or if there isn't a conflict. So it's best - - -

And when would there be a conflict?---There's a conflict if I was benefiting, if there's an opportunity or potential me to benefit out of it, there would have been a conflict.

30

Was there any other circumstance in the period 2014-16 where, as far you understood it, there would have been the potential for a conflict of interest other than you benefiting personally from a decision in which you were involved?---I remember there was a, he had a, he had a DA for, for another site, which is his home and I declared interest on that one.

51 Penshurst Road, Roselands?---Yeah, that's his home, nothing to do with his partners. It's him.

40

Now, tell me, why did you declare an interest then?---Because my daughter at the time, because she was living in the home and he had no partners and I declared interest.

And why did you feel that you should declare an interest?---Because I, he had the approval from council but with a condition in regard to the stormwater and I made some enquiries in regards to his stormwater and then I thought, again, there was the doubt and I declared interest.

And what was the doubt about?---Whether I should or shouldn't so I declared it.

Wasn't this a situation where you were of the view that there was a conflict of interest because you were related to a development proponent, your daughter and your son-in-law were relatives of yours and therefore, because there was a potential for a conflict of interest or there was an actual conflict, you were required to disclose it and leave the chamber and not vote on it?
---I, I don't recall voting on it.

10

No, I know. You didn't vote on it.---Yeah.

Isn't that the case, isn't that the reason why you declared an interest on 51 Penshurst Road for the DA when that came before council?---Because there, there was a, because there was a relationship that my daughter was involved in, yes.

20

And why, as you understood it, did the fact that your daughter was involved in that application mean that you should declare an interest?---My daughter was just fed up. She wanted to leave. She had some issues with the house, with her in-laws, because they were living together, and she wanted to move on. And she was, she was pregnant and she wanted to, please, can you help us to find out what there's delays, and she wanted to move on.

But why did you declare an interest?---Because there's a doubt. I wasn't sure whether I should declare or not declare, so I declared.

30

On the side of, yes, a conflict exists, what was it that would have created a conflict?---Because she was related, she was my daughter and she was married to my son-in-law, that's why.

And therefore you potentially had an interest. That is to say, someone who was related to you had a direct interest and therefore you had an interest.
---Well, my daughter wasn't really benefiting from this. It's her husband and his, his brothers and, and father. My daughter was just there as the, as the, as the wife in the background. She, she had, she, she's got no, she's not involved directly with it.

40

Are you sure you understood what conflict of interest was in 2014-16 when you were a councillor on Canterbury Council?---Conflict of interest is, there's a potential, there, if you know someone, from my understanding, or there's financial benefit from you or you, or someone is a relative or somebody you know, to be safe, declare it. That's my understanding.

In a decision made by council?---In a decision made by council.

I note the time, Commissioner.

THE COMMISSIONER: Just before we take the morning tea break, I just wanted to alert the parties to the following. I've foreshadowed some dates in June. Mr Hawatt, it is anticipated, is our last witness. Mr Drewett had a word with the solicitor at the Commission about some problems of availability towards the end of June which I have taken into account, and to ensure that Mr Hawatt's evidence is finished, we have scheduled some more dates in May. We have scheduled the 8th, 9th, 13th, 15th and 16th of May. At the moment we are, it will be held at the LECC building, which is down towards King Street, and on one of those days – I think it might be the 9th,
10 I'll have to check this over morning tea – we may have a late start. But if parties can put those additional dates in your diary. All right. We'll adjourn for morning tea and resume at 5 to 12.00.

MR MOSES: Commissioner, what dates are coming up?

THE COMMISSIONER: I'm sorry?

MR MOSES: Are there dates coming up in June?

20 THE COMMISSIONER: Yes. I indicated those the other day. 13, 14, 24 and 25.

MR MOSES: Thank you.

THE COMMISSIONER: All right. We'll adjourn till 5 to 12.00.

SHORT ADJOURNMENT

[11.33am]

30

THE COMMISSIONER: Oh, sorry, Mr Pullinger.

MR PULLINGER: Oh, thank you, Commissioner. Commissioner, the dates that were announced as future dates, can I just inform the Commission that I have a criminal trial commencing on Monday, 13 May, and for those dates in that week I would not be able to attend. And if Mr Hawatt is still giving evidence, I think it's important that the interests of my client, Mr Azzi, be protected.

40 Well, I think the best we're going to be able to do, Mr Pullinger, is you'll have to read the transcript at night. You'll have – I take it Mr Stewart will be here?

MALE SPEAKER: Yes.

MR PULLINGER: He'll miss me. He'll miss me.

THE COMMISSIONER: I know that. We all will, Mr Pullinger. But I think that's the best we're going to do, is that you'll have to read the transcript, and then I will take into account that any questioning you have of Michael Hawatt will take into account your unavailability on the 13th, and then 15th and 16th.

MR PULLINGER: Thank you, Commissioner.

10 MR BUCHANAN: Thank you, Commissioner. Mr Hawatt, the evidence before the Commission shows that the development proponent for the DA for 23 Willeroo Street, Lakemba, was a company called Willeroo Proprietary Limited, the shareholders and directors of which were Talal El Badar and Abdullah Osman. You know of Abdullah Osman?---No, I don't.

Have you ever heard of him?---I've heard of him from the transcript, but I've never, I don't know who he is.

20 You never met him?---I might have him once, like, but I don't recall knowing him that well. I might have met him for a maybe a few minutes. But I don't know him, no.

Did you understand that your son-in-law – I withdraw that. Just so I just use the right language, do you have more than one son-in-law?---I, I do.

You do.---But the other one, yeah, but I (not transcribable)

30 I'll use, I'll try to refer to Mr El Badar, then. Did you understand that Mr El Badar had a partner in the project to develop 23 Willeroo Street, Lakemba? ---I don't recall asking him, and I don't get involved in his business affairs.

Yes, but do you recall that he had a partner in that project?---I don't recall, no. I don't recall.

40 If we could go, please, to volume 6, page 6, of Exhibit 52? And can you look, please, at text message number 1 in this extraction? Can you see that it is – I should repeat that this, these are messages extracted from your telephone. It's to Mr Stavis on 24 July, 2015, at 12.12pm, "Hi Spiro, can you let me know the issues associated with a site at 23 Willeroo Street, Lakemba? I am told that it's an isolated site with units on both sides. This should be assessed on its merit, not on the current DCP, with setbacks which makes it unworkable. Thanks, Mr Hawatt." You see that?---Yep.

Can you tell us the circumstances in which you came to send that SMS to Mr Stavis, please?---I think probably because of the complaint I received from my son-in-law, saying he's going to take it to court, and the court will sort it out, and I made an enquiry to Mr Stavis, in, in that regard, based on what I was told. And that was it.

And where did you get the information from that is contained in the text?
---Oh, my son-in-law must have told me.

And what did you understand by the expression, "Should be assessed on its merit, not on the current DCP"?---Correct, because what happened with the DCPs, sometimes if there's an isolated site, you get, you, you take DCP in to consideration but DCP's only a guide. It's not a, it's not a law and you look at the, the isolated site on its own, on the merit of that site and you assess it on that.

10

And when you say on its own, without having regard to the structures, if any, that might be adjacent to the proposed development?---Well, I, I, I've never seen the site so I'm, I'm just going by what I'm told.

Well, isolated with units on both sides indicates that it's surrounded, or at least has on two sides, structures which might require setbacks, which will affect the size of the proposed development.---I, I don't, all I know is what I sent him, what I was told. I never went deep into understanding the issues associated with it. I don't even know where the, where the location was.

20

Why did you sent that text message to Mr Stavis?---Whoever asked me for an enquiry of something, I, I send them a text message. Could have been anyone that was there at the time.

So was it Talal who said to you, "This should be assessed on its merit, not on the current DCP with setbacks which makes it unworkable"?---No. I must have made the decision based on what he told me.

30

Why did you think that the DA was unworkable if the DCP with its setback requirements was applied?---Well, what he's saying, that he believes that he will win in the court and because of an isolated site and normally isolated sites are looked at based on their merits and they're not based on the DCP controls.

But why should it be assessed on its merit and not on the DCP controls?
---Because most isolated sites are, are looked at that, that way, because they're isolated. That's the whole idea.

40

Who says that most isolated sites are looked at that way?---That's the, that's what we've done in council over a period of time.

At Canterbury?---Yeah.

Without having regard to the impact of the construction of a site right up against its neighbour, is that what you're saying?---Of course not, no. Of course it always – impacts are always assessed. If there's no impact, it's, it's assessed based on an isolated site and then the impact and everything

else that comes with it. It's not sort of, there it is, but it's on the merit and you look at it differently.

And because of the potential for an impact neighbouring buildings and dwellings, that is why setbacks are required, isn't it?---Well, I, it depends but if, if, if the objectives are met, you don't need setbacks.

10 Are you sure that you weren't the one who provided the argument this should be assessed on its merit and not on the current DCP with the setbacks which makes it unworkable?---This is the information I received and that's the information I relayed to the director, at the time was Mr Stavis, and that was it.

Well, can I tell you that the evidence before the Commission, transcript page 1482, is that Mr El Badar did not know what you meant by what you wrote there.---Well - - -

20 So the question is where did you get this argument from?---From, from knowledge of being on council regards isolated sites.

And why did you apply it to this particular site?---Because we've applied the same, I would have done the same thing for any isolated site.

But why?---Because that's the way we do it. It's isolated site, you look at it differently. You don't look at it the same way, that's why.

30 Why does it mean that – does it mean that less regard should be paid to the impact on neighbouring dwellings that would be the case if it wasn't isolated?---If it meets objectives, then the controls do not, do not need to apply as stringently like that.

40 And what's the objective in this case?---The objectives, there's no impact on any neighbours, for example, if there's, I don't know who, who the neighbours were. If there's, does it impact any privacy, overshadowing, any lights and all this, all the things that goes in with the controls. If it meets objectives, there's no need for it. If there's no impact on overshadowing, for example, or, or the lights taking away for certain hours of time or privacy issues. All these things are taken into consideration. It's all done. I mean, I don't, I don't assess it. It's all assessed by the planner. But I've sent my, my input in regards to what I believe isolated sited are, and it's up to the planners to make the decision. It wasn't up to me. I don't assess it.

Didn't you think, though, that those objectives were the very reason that setbacks were stipulated in the DCP?---That's correct. That's why we've got the controls, to meet the objectives.

You were arguing for the DA to be approved, weren't you?---I just made an inquiry like anyone else, and it's up to the planner to assess it, not up to me.

I've pointed out to you that it's more than an inquiry, it's an argument as to how the application should be assessed, and you are arguing that a planning control should not be applied, which suggests that – and indeed you say that if it were applied then the project would not be viable.---It's my input. I do this generally with all inquiries. If I understand, for example, a subject or someone calls me in regards to whether it's an isolated site or any other site, I tend to respond in that same manner.

- 10 That is to say, to advocate on behalf of the proponent for approval of the application, notwithstanding the planning controls, is that right?---I don't, it's my opinion, it's my independent opinion to what I believe or understand is correct, and it's up to the assessor, the assessment staff, to make the decision, not me.

But in this particular case you were arguing that the planning controls should not, particular planning controls, should not be applied.---This, this is my input from my knowledge and understanding of isolated sites.

- 20 Yes. And you are saying, shouldn't you, that you should, the council should assess it, sorry, Mr Stavis or Mr Stavis's division should assess it on the basis that relevant planning controls not be applied.---This is my input, my own idea, and it's up to the assessment staff to make the decision.

And your understanding was that if your argument were applied, if your proposal were agreed to, then it would be workable.---If my argument is correct, and the assessors will look at it, and if it's correct they will apply something similar. If it's not correct, they will reject it.

- 30 But, please, Mr Hawatt, if you could just listen to my question. You were trying to get this particular application up, weren't you, by ensuring that development controls which, if applied, would prevent it from succeeding were not applied.---That's your - - -

That's what you were trying to achieve here, wasn't it?---That's, that's incorrect, one hundred per cent.

What is incorrect about that?---Because I'll repeat what I just said.

- 40 No, no. I'm not asking you to repeat it. I'm asking you to - - -?---Well, I have no choice.

- - - focus on what I'm saying. Why doesn't it, why isn't it necessarily the case from your own argument, as we can see here in this text message, that you wanted to ensure that an obstacle to approval was not applied?---This is incorrect because - - -

What's wrong about that? Because you're saying that. That's exactly what you're saying.---Because that's the way I interpret people who ring me in regards to assistance. If somebody said to me I have an isolated site, normally I look at it that way and I make my recommendations from inquiries and it's up to the assessment staff to make the decision.

10 Why is it for you to make any recommendation at all?---Because I have learnt in the past, it's a lot of mistakes, that the staff make a lot of mistakes because they don't apply the objectives of any of the controls and they make mistakes. And I have picked that up in the past.

So your view at this time was that it was a mistake if development assessment staff applied planning controls which would mean that a development project was not viable, is that right?---They will make, they will make the final decision, not I.

20 That's not my question. You thought it would be a mistake if development assessors applied planning controls which applied to those particular projects, is that right?---No, if it meets the objectives, if it meets the objectives of the controls, then it should, should go by the objectives, not the controls.

But the whole purpose of a control that has been embodied in a planning instrument is that it be applied. That was why the instrument was created. ---Based on the objectives.

But, no, no, can I ask you to just think of my, focus on my question. ---Correct.

30 Why do planning controls have provisions in them? They don't just have objectives, they have actual controls specified, don't they? Yes or no? ---Based, based on the objectives.

No.---That's exactly what it is.

Why do you think planning instruments have controls in them?---Because of the objectives, our objectives.

40 And the whole point of - - -

THE COMMISSIONER: Sorry, when you say "our objectives" - - -?---The council, council's - - -

Council's objectives.---Council's objectives.

MR BUCHANAN: But you have been involved in passing, have you, resolutions to adopt a control plan, is that right?---Yeah, yes (not transcribable)

So you've been involved in approving a planning instrument that not only includes objectives, but also specific controls, thou shalt ensure that if it's an isolated site, you will have setbacks of X metres?---It all depends. Every control we have is based on an objectives, from my understanding.

10 And you've agreed to those controls, because you thought they were based on the objectives, correct?---Well, it's, it's, it's a – we agreed on it based on whatever the staff or the consultants have come up with, based on our concerns and the concerns of the objectives, and they come up with the controls to meet them. And we, and we support the recommendations that was made at the time. I don't know who - - -

But in particular cases, you were prepared to advocate on behalf of development proponents that planning controls in the control plan, which you had agreed to, be set aside, be not applied. Is that correct?---If it, if it meets the objectives.

20 Now, can I take you, please, to volume 6, page 89? This is a page of notes from a notebook that was kept by Mr Stavis. And can you see that in the second half of the page, it records against the date 18 December, 2015, "Meeting with Michael Hawatt"?---(No Audible Reply)

Do you see that?---Yep.

So did you have meetings with Mr Stavis?---I, all the time.

30 When you say "all the time," how frequently?---I get a lot of enquiries, as you can see from here, I got seven enquiries on the particular one, and I get a lot of enquiries and I follow up with the enquiries when I see him.

Were they all projects – I withdraw that. How many projects did you take up with Mr Stavis where the aim of the exercise was, as far as you were concerned, to prevent the project from going ahead?---I, I don't understand your question.

40 Well, is it the case that for – to the extent that you can read them – the projects, the subject of this list that's in front of you now were all projects where you were trying to progress the application concerned?---These are enquiries that, that I received, and my duty as a councillor to, to represent the people, not the council, the people, and I make my enquiries, and if I meet up with Stavis, I follow up, find out what the progress is, and I send it back to the people.

But in all these cases, you were advocating for approval, weren't you?---I'm representing the people, every person I - - -

Sir, can you answer my question?---Yeah, but of - - -

If you could answer my question, please.---Okay, can I ask - - -

In – no, I’m interested in answer to my question, in all of these cases, you were advocating for approval, not rejection, but approval, didn’t you?---Not all, not all cases.

10 Any of these were you arguing for rejection?---It’s not that I ask for, I, I argue for rejection or approval, I check – when I get a response from the staff to tell me what the issues are and I make the assessment to see whether the staff is, is correct in their assessment or they made a mistake or I support the assessment or I don’t support the assessment. If I believe that the staff have made a, a, a wrong call, I go further and I keep going until I find out what the results are from every person that calls me. - - -

You try to change the wrong call?---Not the wrong call, no. I never changed a wrong call.

20 You tried to change it if you don’t agree with what staff are proposing, as you understand it?---No, I argue a point and it’s up to the staff to, to come back to me and say, look, you’re right or you’re not right and they make the final call.

30 And where you’re intervening, as you appear to be in these cases that are listed in this note of Mr Stavis’s for a meeting with you on 18 December, 2015, you’re intervening on behalf of the development proponent, aren’t you?---I’m just waiting for the people who called, these are the people who called me and I am looking, I’ve sent it, I’ve sent it to Spiro and said, listen, please give me progress on these so I can keep my people who called me up to date on the progress.

Would it be fair to say that in the vast majority of cases where you intervened, generally speaking, in the period 2014-16 with whoever was the director of planning, you were intervening at the request of, as you understood it, the development proponent?---Whoever calls me, I sent the enquiry through.

40 Yes, but what I’m asking you to do is make a judgement. Think now about 2014-16. There might have been the occasional case where you intervened on behalf of an objector, is that fair?---Correct.

But in the vast majority of the cases, you intervened on behalf of the proponent, didn’t you?---No, it’s not really. I did both, majority and minority.

What’s wrong about the proposition that the vast majority of cases, you were intervening on behalf of the proponent?---I make an enquiry on behalf

of the proponent. I wait for the council staff to come back and give me an assessment - - -

Please, that's not an answer to my question.---That is, it's - - -

10 What we're trying to establish is what proportion of the projects in respect of which you were intervening were projects where you were advocating for rejection and what proportion were projects where you were advocating for approval?---I don't have the figures but it could be 50/50, could be less than that or it could be more than that. I don't recall.

You're not prepared to give an answer that is true, are you?---I can't give you, 20 years I've been doing this, I can't give you an answer over 20 years.

I'm not asking you to. I said 2014-16.---Yeah, but I'm saying, I have 20 years of, I don't, I can't recall, I've, I've helped people, I've, I, I go out of my way to assist people. That's the way I am. I don't sit on my, on, on, on my, on my bottom and do nothing to, when people call me, I help them.

20 What I want to suggest to you is this, that it is open to the Commission on all of the evidence to conclude that in the vast majority of cases where you intervened with council staff, particularly Mr Stavis, you were advocating on behalf of the development proponent and, therefore, for approval in the case of development applications and progressing – in the case of planning proposals – progressing the planning proposal on behalf of the proponent. What do you say?---That's incorrect.

30 What's incorrect about it?---Because I've, I, I went against other, other developers. I went against them for supporting the residents.

Now, in the case of this particular meeting with Mr Stavis, Mr Stavis wrote, "Section 34 conference (what's the latest?)." Can you assist us with what happened at that meeting in relation to 23 Willeroo Street?---Sorry, what was that again? I just - - -

Can you see the item that is second last on the page, 23 Willeroo Street?
---Yeah.

40 Can you see it reads, "Section 34 conference (what's the latest?)"?
---Conference with the court presumably, the meditation obviously but it's what it is.

And were you, on behalf of your son-in-law, asking how is the conference going or what's happening in it?---I'm just asking for progress.

Sorry?---I'm asking for progress, like, for all these people here.

So your son-in-law was telling you what was happening from his side of the court case, is that fair to say?---No, that's not fair to say.

What's wrong with that?---I don't talk to him about his development. I don't deal with him.

Well, sorry, why were you intervening at all?---Because I make an inquiry on his behalf and I follow up my inquiries.

10 But where were you getting the information from?---From Stavis. You can, you can see I'm asking him.

THE COMMISSIONER: No, no. What prompted you to make the inquiry of Mr Stavis concerning 23 Willeroo Street?---Because when someone calls me and (not transcribable) I follow up.

So your son-in-law contacted you?---Before, originally, so I follow up on everything that I've got to close, close it. I don't leave my inquiries open. (not transcribable) finished. I close it.

20

MR BUCHANAN: So your son-in-law had told you about a number of aspects of this particular application, correct?---No number of aspects, just, just about his concern. I made an inquiry. He came back. I followed it up so I can finish it off my list.

You understand it involved litigation between council and your son-in-law. ---It's up to them. It had nothing, after that I, I walked away.

30 And what you were doing here was trying to find out what's happening from council's side of the litigation.---I follow up every inquiry to close my book.

Please, please, Mr Hawatt, can you answer my question?---That's the question. I, I close, I follow up on everything I sent.

What you were trying to do here was find out what's happening on the side of the party opposing your son-in-law in this litigation, weren't you?---No, on, on, on the whole list in front of you. The whole list, not just his.

40 Can we play, please, Exhibit 102, an audio file. And if I could explain to you, Mr Hawatt, what we're going to play is a recording made of a telephone conversation, and I'm going to be asking you afterwards whether you recognise the voices, and I would like to ask you some questions about it. What the Commission has been done, and in this case is in evidence, is a transcript of the conversation. Now, part of the conversation is in Arabic, and what the Commission has done is obtained a translation of the speech which is in Arabic and placed the English translation inside square brackets in the transcript. What I'd like you to do, please, is follow the conversation

that you will be able to hear when the audio file is played, and on the transcript, so that you can see whether if it is the case or that the transcript is a transcript of what you hear when the audio file is played. Do you understand?---(not transcribable)

Yes?---Yes.

Thank you. Exhibit 102, thank you.

10

AUDIO RECORDING PLAYED

[12.28pm]

MR BUCHANAN: Mr Hawatt, did you recognise the voices of yourself and Talal El Badar?---That's correct.

Now, did you have any problem following the transcript?---No, none, none at all.

20

Thank you. Now, can I ask you, referring to the transcript, if you wouldn't mind, we've got the first page of it on the screen in front of you, where you referred to – a bit over halfway down – to “amalgamation announcement and everyone's running around,” and you went on to say, “Yeah, it's going to be Bankstown,” where did you get that information from? Bearing in mind that the date of this conversation is 18 December, 2015.---Oh, everybody's talking about it. Every - - -

30

Where did you get the information from?---Maybe it's from, maybe from members of parliament, maybe from people in the, in the Liberal Party, I just can't recall exactly.

How did you first find out that the amalgamation of Canterbury Council would be with Bankstown Council?---Oh, I don't recall, because I think there was a, from, probably someone told me.

40

But this is quite early in the piece. This is not even 2016. It's December 2015. How did you know in December 2015, that the amalgamation, if one was going to occur, was going to be with Bankstown Council?---Well, I'm just guessing someone told me. I mean, how, oh, how would I know?

Was there a decision made by Canterbury Council that if it was going to be merged, it wanted to be merged with Bankstown and not somebody else? ---No, but we'd preferred actually Hurstville.

THE COMMISSIONER: You'd prefer Hurstville?---Yeah, yeah.

MR BUCHANAN: So it wasn't, in that case, a decision of Canterbury Council that was your source of information, in this case - - -?---Yeah, we were - - -

- - - it was some other source?---Correct. So we were against Bankstown at, at, at that time, we wanted Hurstville. And even Bankstown, they had meetings, they didn't want to amalgamate with Canterbury, so - - -

10 Even though you thought that approvals would be done quicker if you merged with Bankstown?---I would say (not transcribable)

Well, did you think that – you've told us you would have preferred an amalgamation with Hurstville?---Hurstville, yeah.

20 But you told your son-in-law that approvals might get done quicker, "It'll all be done quick." We're looking at the second last paragraph on page 1 of the transcript.---Yeah, correct, that just a, it's a, it's a passing, passing comment, done quick, just be done quick because it was amalgamation, and just general discussion, but there's nothing clear or specific. I didn't even know what he was talking about. I don't know the address or his issues.

Well, you seem to know what he's talking about, because you said, "That's right. It'll all be done quick."---Yeah, but I asked him about what the issues were, what the address was. As you can see, I didn't have a clue.

30 No, no, no, you're not talking about Willeroo at this stage, you're talking about amalgamation. And Mr El Badar said, "Now approvals might get done a bit quicker," and you said, "That's right. It'll all be done quick."---Yeah, because, because Canterbury was way behind, people were complaining about Canterbury, about the delays. We're saying, if there's amalgamation, that might improve on the progress and the, and, and the work to perform in regards to DAs. That's all it is.

And so Mr Stavis having started work in March, was it the case that people were still complaining in December, 2015, about delays in approving development applications?---Oh, look, I've, I've received calls from people that are happy with the progress. Others are still complaining. People are, you can't please everyone.

40 Now, when you were told by Mr El Badar – this is the bottom of page 1 – that the site he was asking you about was Lakemba, Willeroo Street, top of page 2, you said, "No, no, we'll get it done, God willing. We'll get it all done."---That's - - -

You meant by that, didn't you, that you would ensure that the DA was approved.---It'll be done. That's my, that's my, it'll be done, I'll follow it up, but I don't approve it. And as you can see, my words were useless because it went to mitigation in the courts, so I didn't do much for it.

Mr Hawatt, I can tell you that on the information before the Commission, this application was already in court.---Well - - -

As soon as you start talking about section 34, it means that is already in court.---Well, I didn't know that, but that's what he told me, it was in court. He said to me (not transcribable)

10 Except that your response to your son-in-law raising the question of approval of Willeroo Street, Lakemba was, "No, no, we'll get it done, God willing. We'll get it all done." Plainly there you're conveying to him that you and he will get that development application approved.---That's incorrect.

What else could it mean?---Well, it's just giving him something positive to hear.

20 So were you telling him something you didn't think was true?---No, I'm just giving him something positive, that the council will assess it or will work on it, will get it done. It's just positive thinking, and that's the way I am. I give people positive thoughts.

If you're talking about approvals, which is what your son-in-law raised, then to say we'll get it done means we'll get it approved, doesn't it?---How could we get it approved when it's mediation with the, with the courts?

No, what you're saying is we will get it done. Will.---We will. It's a positive reaction, positive thought. I mean, I can't assess his application.

30 No, but you can influence the recommendation made in respect of his application, couldn't you?---Well, I didn't do much influence when it went to the, it kept going to the mediation and through the mediation system.

And you could influence the instructions given to council's lawyers in the mediation, couldn't you?---Oh, that's, that's incorrect. That's, I didn't - - -

Why is that incorrect?---Because I've never interfered in that, in that process at all. I don't interfere with legal - - -

40 You understood – I'm sorry, I interrupted you. You were about to say? ---Anything legal matter, I, I don't get involved in it.

But here it was a legal matter, it was in court, and you were getting involved.---I just made an inquiry on his behalf, that's all it was.

Now, still on the second page of the transcript, after Mr El Badar provided you with some details about, as far as he was concerned, the problems he was having, you said, "Leave it to me. Just give me, send me the address.

I'll fix," didn't you?---What I said to him, I didn't want him to, to whinge too much about, about it. To send me the information, give me the address, give me the details, I'll make the inquiry and I'll come back to him.

Well, that's not what you said. You said, "I'll fix."---I'll fix. It's a word. That doesn't mean, it's, like, people speak sometimes very vague, say things, but I can't fix anything. I mean, in reality there's nothing that I can fix.

- 10 You could fix by talking to Spiro Stavis, the director of planning, to whom the people working on the development application reported, couldn't you? ---That's incorrect. It's, it's, it's, it's, look, it's a word that's thrown in, it's meaningless, because at the end of the day it's the assessment who'll make the decision, not I, not even Stavis. It's up to whoever's assessing it at that time.

- And going over to the third page of the transcript, after Mr El Badar had told you what had happened and that council was coming back and saying they wanted more things, and then, second-last entry, Mr El Badar said,
20 "They just want to cancel the section 34 and go to court." You said, "Leave that to me. I'll talk to him. I've got a meeting with him at 3 o'clock with him anyway." You were talking about Spiro Stavis, weren't you?---To talk to Spiro, yeah.

Yes. And you were basically saying I will fix this or these problems that you've told me about in relation to getting your application approved, isn't that the case?---Well, I didn't fix it because it went, went to mediation anyway.

- 30 It was already in mediation.---Yeah, correct but it continued with it, they continued negotiating. It wasn't – I don't know what they did after that, I pulled out.

When you said, "Oh, leave that to me. I'll talk to him," what you were intending to do was to influence the position that council took in that part of the court case, comprising the mediation?---That's incorrect.

- 40 What else could it mean?---Well, that's your interpretation. As I said, he, I, he made an enquiry, I responded to his enquiry, some of the words you heard at not necessarily solid words, they're just thrown-in words. At the end of the day, it was up to the mediation to make the decision, up to the planner to make the assessment and, and that was my role in this whole thing.

That's not the impression one gets from listening to what you were saying to your son-in-law in this conversation, Mr Hawatt.---You, you can interpret it in many ways, Mr Buchanan. You can interpret it many, many ways.

Now, on the fourth page of the transcript, you said to El Badar, “Now, listen, are you ready for that because we are settling, we’re going to settle next week on that unit?” And Mr El Badar said, “Yeah, yeah. No problem, next week.” And you said, “All right. Because we’ve got, we booked it for the 22nd, I think.” What were you talking about there?---They bought, they bought the, my property in, in Santley Crescent in Kingswood.

Who’s they?---Well, him and his partners. My son-in-law and his partners.

10 Mr Abdullah Osman?---I can’t remember who was involved in it but they bought it.

Well, he was one of them, wasn’t he?---He was one of them, yeah, from reading the transcript. And they were interested in buying the site and I gave them conditions, I said, “Look, I don’t mind, you know, extending it but I need 300,000 up front,” because I had to remove the caveat on the, on the property at the time and to buy another property to, to appease the person who had the caveat on the property and that was the condition I had for them and they accepted the condition and, and then I organised, I went
20 up to the Gold Coast, found a unit and found an apartment, 300,000 and I said to them, “I need the funds in order to, to remove the caveat,” for them to continue with the purchase and that’s what happened. That’s a, that’s a, roughly the basis of the discussion in that regard.

Thank you. Now, that conversation was at 12.22pm on 18 December, 2015. What I’d like to do, please, is show you a transcript of Exhibit 103. Excuse me. Excuse me a moment I’ll just try and make sure I don’t hit the microphone. Could you read to yourself – actually, could the witness be
30 provided with Exhibit 103, please, the hard copy.

THE COMMISSIONER: It’s in folder 1.

MR BUCHANAN: I might invite you to read the hard copy because otherwise you’re confined to a single page that’s shown on the screen, and I will go to particular pages shown on the screen but I’d just like you to have an opportunity of looking at the transcript yourself first. You can see that it’s a three-page document.---So do you want me to read that?

40 Yes, please.---The three pages?

Yes, please. Now, I’ll say it now but I’d just like you to understand that if at any time when I have asked you read one of these transcripts you think to yourself this doesn’t sound right or for whatever reason you want to hear the audio file being played, can you please tell us and we’ll play the audio file?
---Yeah, yeah.

Would you like the audio file played in respect of this particular conversation?---No, no, I’ll just read it.

Thank you. Now, on the first page of the transcript, about halfway down the page, you refer to Penshurst and a report that's been generated. It's all been signed off. Was that in relation to the 51 Penshurst Road, Roselands property that we spoke of earlier?---Could be, yeah.

10 And what was it that you understood – I withdraw that. What was it you were referring to when you said a report that's been generated, it's all been signed off?---I think it's to do with the stormwater. That's my understanding.

Yes. But what was the effect of the report?---It could be finalising the stormwater because it was a submission that he had to make through the consultants. Presumably the council looked at it and accepted the report from the consultant. That's my understanding of that.

20 Now, it's about two-thirds of the way down the page, you said, "I just left a message regarding, I just spoke to him regarding Willeroo, is it Willeroo?" That was a reference, was it, this is at - - -?---To Stavis, yeah.

- - - 2.24pm, to the meeting that you had foreshadowed having in the conversation at 12.22pm with your son-in-law?---Could be, yeah.

30 And you reported to Mr El Badar, "He's going to look at it and come back to me," and you said, "I said, look, there was a section 34. They've done everything they've asked for and somebody shifted the, changed the rules again and asked for, you know, more things and different things." Over on page 2 of the transcript, went on to say, "He said, well, that's not acceptable and I said that's correct. I said, you know, if somebody asks for something, you don't go around changing it after they give it to you, you know." ---Yeah.

40 So you accept that what you were doing there was trying to influence the way council's litigation was being conducted in terms of the instructions given to the lawyers?---That's, that's, to me that's nothing to do with the lawyers. It's to do with me saying that I've given the council staff what they asked for, what they wanted. I gave it to them, and they changed their, they changed their mind for different things. And to me that is incorrect. If somebody asks you for something, you give it to them and then they change it? That's not right. That's what I was saying here.

And then two-thirds, a bit over halfway down on page 2 you said, sorry, Mr El Badar said, "So the 22nd is the other one, the settlement." You replied, "Ah, 22nd, yeah, yeah." And that's a reference to the - - -?---The unit.

- - - settlement on the unit, is it?---Yeah. Yeah.

And that unit was in Queensland, is that right?---That's correct.

Now, just going down to the bottom of the page. You said, "But we need the money." El Badar said, "That's it, yeah. Tom's just going to give us who the cheque's got to go to and then we draw the, we do the cheque we can." You asked, "Bank cheques, yeah?" And he said, "Yeah, yeah, yeah." And you said, "All right. That's fine. Will organise." What were the cheques for, as far as you were concerned?---It's for the unit on the Gold Coast to, to settle to pay out the, the, to pay it out. We needed a back cheque to pay them.

10

To pay whom?---The, the people I'm buying it from.

And Tom, was that Tom Zreika?---Yes.

And was Tom Zreika your solicitor?---Yes.

Thank you. Now, volume 6, page 6. We can see a message too, that on 21 December at 2.56pm, Mr El Badar sent you a text which read, "23 Willeroo Street, Lakemba," but nothing else and you then sent a text – when I say then, at 4.02pm the same day – to Mr Stavis, "Hi Spiro, any news on 23 Willeroo Street, Lakemba? Michael." What was it about Mr El Badar's text message at 2.56pm that made you send the message you sent to Mr Stavis at 4.02pm?---It means he's just waiting on some outcome from 23 Willeroo Street. That's, he sent me the address to remind me that, "I'm still waiting."

20

And what were you waiting for?---He was waiting for some response to see what's happening with it, the one I, I said I will check in to it and come back to him. I must have, I mustn't have followed it up or something, or didn't, didn't come back to him.

30

And did Mr Stavis ever indicate to you that the proposals of your son-in-law and his colleague in relation to this development application, were not satisfactory?---Sorry, just, I'm just reading.

40

That's okay but, yes, if you can see that at 5.22, Stavis replied, "Re 23 Willeroo, it is on appeal. I understand they have not made the changes we want in terms of bulk and scale et cetera. Happy to meet to discuss." You recall Mr Stavis indicating that there were two sides to this story?---Correct.

And then can I ask that the witness be shown Exhibit 209, the hard copy transcript for the telephone conversation that is Exhibit 209, please. If you could read that transcript to yourself, please. It's six pages long.---Yep.

At the bottom of page 1, Mr Stavis said, "Hey, just getting back to you regarding Willeroo now" – oh, I'm sorry. Let's first establish the date and the time. It's 21 December, 2015, this time at 5.42pm. You see that?---Ah hmm.

And so, at the bottom of page 1, Mr Stavis said, “Hey, just getting back to you regarding Willeroo now that that there’s an appeal on at the moment,” and you said, top of page 2, “Yeah, I know. I was told the reason for that is because council kept on changing. I mean, they asked,” and Stavis said, “Parameters,” and you said, “For all these things, and they changed it after I visited you with ridiculous, you can’t,” and the conversation continued. And then, can I take you to page 5, a bit over halfway down that page?
---Yep.

10

There’s a two-line entry for Mr Stavis. It says, “Yeah, if you want.” Do you see that?---(No Audible Reply)

And then he says, “Now, listen. The only way, because there’s lawyers involved now, what you should tell your, the person is to tell them to instruct their lawyers to request a meeting, an info without prejudice meeting with me.” This is going to the top of page 8. And you said, “Okay, I’ll tell them to do that.” Stavis said, “And then I can sit in that room and we’ll work it out,” and you said, “Okay, I’ll tell them to do that now.”
20 Stavis said, “That’s the best way, okay.” You said, “Okay then, we’ll do that. Thanks for that,” and later, “I appreciate it.” Do you see that?---Yep.

Mr Stavis was proposing, as you understood it in this conversation, to work out a solution with the proponents, your son-in-law and his colleague.
---Yep.

And you were happy with that.---Yep.

30

By this stage, by 21 December, I’m looking at page 5 of the transcript, and the entry, the two-line entry a bit over halfway down. Had you told Mr Stavis that one of the proponents was your son-in-law?---I don’t recall. Actually, I probably didn’t. I didn’t want him to think he’s doing us any favours. I kept it neutral.

What do you mean by that?---I didn’t want him to think that I’m going to pressure him to know that he’s my son-in-law and pressure him thinking that he’s going to help me, so I kept it neutral, I kept it out of it to treat him like any other person.

40

Sorry, I’m trying to understand. I thought a moment ago – maybe I misheard – I thought you said, “I probably did tell him.”---No, I don’t think I did.

You think you didn’t?---No, no. I don’t think I did.

And when you say that, are you saying I remember this or it was my policy never to try to influence Mr Stavis by indicating my relationship with the

developer proponent? What are you saying?---That's, that's probably the case because I didn't want him to know he was my son-in-law at that time.

What, you did at some later time?---I think he, I think Talal might have told him further, I'm not sure, but I did not tell him that he was my son-in-law. He didn't know at the time.

10 And that's because you didn't want to unduly influence Stavis into thinking that he should do things which would result in an approval which your son-in-law would be happy with just because he was related to you?---No, I just want him to have an independent mind about thinking any, any connections to myself. I'm just doing an inquiry like any other person and I'm treating him exactly the same way. So it's up to Mr Stavis to make the decision, not because of he's my son-in-law. That's why I didn't want him to know.

20 And I just ask you because that paragraph there attributed to Mr Stavis, "Now, listen, the only way, because there's lawyers involved now, and what you should tell your, the person is," the way it reads is that Mr Stavis stopped himself from saying something after the word "your" and changed what he was going to say to "the person".---No, I don't think so. I don't think I, I, I specifically, I remember this, I specifically didn't want him to know it was my son-in-law.

And that was because you thought it would be improper to influence him by him having the knowledge that one of the development proponents was related to you, is that right?---Correct. Correct.

I note the time, Commissioner.

30 THE COMMISSIONER: All right. We'll adjourn for lunch and resume at 2.00pm.---Thank you.

LUNCHEON ADJOURNMENT

[1.02pm]