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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 2.00PM

Any person who publishes any part of this transcript in any way and to any person contrary to a Commission direction against publication commits an offence against section 112(2) of the Independent Commission Against Corruption Act 1988.

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

THE COMMISSIONER: Now, can I just confirm, I think I might have created chaos before morning tea. I'm sorry, Mr Moses, I misheard what you asked. Those dates in June that I gave were actually sitting.

MR MOSES: Oh, yes, thank you. Yes, I think the Commission solicitor dealt with that.

10

THE COMMISSIONER: Right. Good.

Mr MOSES: You don't often create chaos. Just occasionally.

THE COMMISSIONER: Thank you, Mr Moses. All right, Mr Buchanan.

MR BUCHANAN: Thank you, Your Honour. If we could go back, please, to the transcript of the telephone conversation that you had with Mr Stavis on 21 December, 2015, commencing at 5.42pm, Exhibit 209. And before I take you to a particular passage, what contact did you have with Ms Dawson whilst she was a member of staff?---Oh, the same way as when she's acting director. The same way, when we do, when we get enquiries, responses, I send it to her as well.

20

Did you have contact with her when she was not acting director, when she was just manager of planning?---Nah, mainly with the director, or, or the senior planner at the time.

30

You had a low opinion of her, is that right?---It's not a, it's not a low opinion. I had a, I had an opinion, but not a low opinion. I had an opinion in regards to her, her, her performance, that's all.

40

And what was that?---Well, she, she never, they were sitting, I mean, her, her, her team were sitting on a number of strategic, planning proposals that were submitted to council, and that's unfair to keep, well, I don't care whether you like developers or not, but whether it's a developer or an applicant, to keep them waiting forever to respond to their application, and I think that was unfair to, to treat people, especially people from the public, in that manner. And that's the only thing I, I wasn't happy with in regards to her, her ways of doing things.

Which particular planning proposal or proposal?---Oh, there was a lot. I, I received a lot of calls and I think, and I read the transcript at one stage and, and even she said it, "Oh, we were sitting on a lot of the, the planning proposals." So that's, it's not right, it's not right.

Well, I think the evidence before the Commission that you might have been thinking of was the extraordinary increase in planning proposals that had to

be worked on during the Residential Development Strategy period and afterwards - - -?---Well - - -

- - - after the LEP had been made.---No, well, that's – it's correct in some ways, but it's incorrect in other ways, because during the turmoil with the, the, well, the sacking of Jim Montague, that's when the – they basically took advantage of the situation and, and sat, sat on, on all those planning proposals, because I received a call from one person saying, “Oh, I rang council to enquire about my planning proposal that was submitted, and the
10 feedback I got was this is a new world.” Like, you know, in other word, “Get lost, it's a new world, we are back in control.” That's, that is basically what the comment was.

And so where you previously had referred to people being “back in control” were you referring to Mr Gouvatsos and Ms Dawson, the managers?---No. Look, Mr Gouvatsos is a very good senior planner. I have a lot of respect for him. And he's always, he's always there, has given me good advice. He's always found solutions for people.

20 Is the answer “no” in respect of Mr Gouvatsos and “yes” in respect of Ms Dawson?---Yes, yeah.

So, if I can take you then to page 3 of the transcript of Exhibit 209 – I'm sorry, I'll just check, yes, Exhibit 209 – you told Mr Stavis that you were glad that Ms Dawson had resigned.---Yep.

And Mr Stavis told you that, “She couldn't handle the pressure that she was on.” You see that?---Ah hmm.

30 And Mr Stavis laughed when telling you that Ms Dawson told him that. ---Yep.

And Mr Stavis explained that he was referring to the pressure he was putting her under. Do you see that?---Yep.

He said that, “We want results,” going over to the fourth page of the transcript and then you said, “She was working, I didn't realise she was working with that other lady who was after the job, remember that position?” And you're referring to Karen Jones there, weren't you?
40 ---Actually, I found out from some sources - - -

Please, please, please. The person you were referring to as, “That other lady who was after the job,” was Karen Jones, wasn't it?---Yes, yeah.

And you referred to people that worked at Leichhardt Council as being a bunch of jerks in the middle of page 4, is that right?---Yep.

So that was the view you held of Karen Jones at the time she applied for the job, wasn't it?---She wasn't working at the Leichhardt Council at the time. I was talking about the council because Leichhardt council has a history amongst all the councils in New South Wales as being a very green, anti-development council. That's basically it, but Ms Jones wasn't, she wasn't working there.

10 You didn't understand Ms Jones to have any connection to Leichhardt Council at the time she applied for the position of director of planning?---I, I don't recall whether she did or she didn't. All I found out is that she was, she knew, through sources, that she knew Dawson.

That she knew?---She, she, she knows Dawson.

Now, you then said, if I can take you to the second last entry on page 4, "I knew she was shifty." That's a reference to Karen Jones?---I'm not sure whether it's Dawson (not transcribable) shifty for. Sorry, which, which, which one?

20 Well, the middle of the page, Stavis said, "All right. So Manoski, her, the one that was interviewed and she's, and now she's gone back to Leichhardt."---Yeah, that's Dawson.

You didn't think that the one that was interviewed was a reference to Karen Jones?---No, there's comments about Karen Jones but this, the rest of it, the shifty part of it is related to Dawson.

30 And what was it that you thought that, if you understood you were being told that Ms Dawson was going to Leichhardt Council, meant that she was shifty?---She was shifty at Canterbury. I'm talking about Canterbury, not going, because she's going to, to Leichhardt but she was, she did some things that, well, I wasn't really happy with.

If you weren't happy with it, did that mean that she was shifty?---Well, when somebody sits on planning proposals and somebody tells you something and does something else, and I can give you some examples if you like, actually you lose respect for that particular person.

40 And then in the middle of the fifth page, Mr Stavis said, "Yeah, so there's, there's one down," and you jested, "Can I apply?" and laughed. Do you see that?---Yep.

And Stavis responded, "Yeah, if you want," and he laughed too. By that, do I, is it right to understand that you were of the view that it was a good thing that Gill Dawson had left but that there were more who should go as well? ---Correct.

And why did you think that?---Because the team, there's another, another couple of people in the team that I believe are, or were working together to undermine not just ourselves as councillors but also the general manager, and they've got history and I, I can give you some names if you like of people, of public who had issues in regard to their development, planning proposals which were submitted to the Department of Planning, and it was sabotaged by these same people, and he has records and he was going to take them to court and sue them and he rang, he, he's spoken to me about it and he's got evidence to show that they subjected him to, to manipulation in regards to his application to the Department of Planning.

Who was that?---A guy called Sam Pampris.

How do you spell the surname?---Sam Pampris.

How do you spell the surname?---P-a-m-p-r-i-s.

Thank you. Now, you wanted to see, did you, certainly the senior staff removed from the planning division at Canterbury, is that fair to say?---No, it's only, the issue I had was with the strategic planners, that's all.

So the people who dealt with planning proposals, not the people who dealt with assessment of development applications?---No, correct.

Is that right?---Yes.

Did you consider that the production of planning proposals and the assessment of submissions for planning proposals might be a quite complex exercise? Did that occur to you?---Well, it didn't occur to me, no.

It didn't occur to you that it might involve quite a lot of difficult considerations that would impinge on each other?---Well, not really, because it's, it's pretty straightforward. If you've got, if you've got somebody putting a planning proposal for an extra two levels or, or an extra FSR, they make a decision, look at it and assess it and send it to the Department of Planning who make the, really, the final decision. Not council, it's the Department of Planning who make any changes to the LEP. So, why - - -

But first of all a report had to be provided to council, and council had to resolve that a planning proposal be prepared and submitted to the department.---Correct. Correct.

And so there was a role there for the planners, council planners, to play in informing council as to whether or not it should resolve that a planning proposal be prepared.---Correct.

But you didn't think that the considerations that were required to be taken into account might be complex and sometimes inconsistent with each other?---I'm talking about completed planning proposals, not ones that have been assessed. I'm talking about the ones that have been completed and sat on. There's a big difference.

Excuse me a moment. Now, when at page 6 of the transcript Mr Stavis said to you – this is the third entry – “And then I can sit in that room and we'll work it out,” you understood Mr Stavis to be saying that if a meeting could occur between him and the proponents, he and them would work out a solution.---We're talking about Willeroo (not transcribable)

I'm sorry?---Which development are we - - -

The third – oh, I'm sorry. This is Willeroo.---Willeroo. So they had to sort out, work it out, and it's up to them to work out whatever they had to work out. I just made my inquiry and I made my submission and it's up to, up to the staff of council to finalise it.

20 Yes. But what you understood Mr Stavis to be saying was that he would - - -?---Assess it.

- - - ensure that a solution was found. Is that fair to say?---Well, fair enough, because he's a solution-driven planner.

And that was what you wanted from your director of planning.---Well, he's like George Gouvatsos. He was a solution-driven. That's why I liked George because he used to find solutions to help people.

30 Would it be right to say that George Gouvatsos was the manager of development assessment.---Correct. But the same principle applies. If you find solutions to a person who puts a DA in and there's some issues with it, and he says if you do it, instead of this way, doing it this way and that way, and that's a solution-driven assessor or planner. And, and I have to say that Mr Stavis is the same.

And that pleased you?---Well, it's good for – it doesn't please me, it pleases the people who, who come in and, and inquire and complain and whinge about it. It's a big issue out there.

40

Excuse me a moment. Can I take you, please, to Exhibit 107. Thank you very much. If you could read this transcript, please. It's a telephone conversation between Mr El Badar and yourself at 5.52pm, on 21 December, 2015. Now what I'm going to ask you to do is just when you've come to the end of page 3, tell me, if you wouldn't mind, please.---Okay, okay, I will. Yep.

So you can see that, from what you've read so far, Talal was trying to find out from you what you could tell him as to how a meeting between the proponents and Mr Stavis would take place, what the logistics of that would involve as to who would be present, for example, as to whether he needed a lawyer and so on.---Yeah. Yeah. It's up to there.

10 Can I just take you then towards the top of page 3, where you said in the second entry there, "I mean, I just don't understand why you," something unintelligible, "why you didn't talk to me before you went to court." Why did you say that to your son-in-law?---I might have resolved the issue before, beforehand, I mean - - -

And how would it have resolved the issue, or how could it have resolved the issue?---To, to find a solution, the best solution to resolve the, if there's a way of doing it, that's, that's all there is (not transcribable)

20 So you saw yourself as a person who was, a person who could facilitate the providing of solutions to development proponents such as your son-in-law. ---Well, well, I used to make my own observation of any enquiry that came through, including my son-in-law, and I made a, a judgement, and I used to send an enquiry based on my judgement, what I think it is. But at the end of the day, it's up to the, the directors and the planners to make a, the final judgement. I make it, but it's only based on my own, my own opinion.

Thank you. If you could keep reading, please, and I'm going to ask you about page, at the bottom of page 6, if you could pause there, please. That's pretty much the end, anyway.---Do you want me to read the whole lot? Or end of - - -

30 Well, what I just want to take you to is just simply the top, towards the top of page 6, if you wouldn't mind.---6. Yeah.

Do you see there that the transcript has you saying to your son-in-law, "So look, just go and see Spiro, he'll sort it out"?---Yep.

40 Is that a, another illustration of you telling Talal that as far as you were concerned, Spiro Stavis would provide a solution if he spoke to Stavis? ---No. If he's happy, if Mr Stavis is happy with the solution they're going to give him, then he will, he will look at it, either favourably or non-favourably, depends on what the solution is.

Well, that's not what you said here.---Yeah, this is words.

It's the other way around. What you said was, "Look, just go and see Spiro. He'll sort it out."---He'll sort it out, correct. He will look at it and sort out if there's an issue with it or no issue with it.

Again, that's not what you said to your son-in-law. You indicated to him that the problem would be solved by Spiro, didn't you?---Correct. He will look at it, he will make a decision whether it can be done or can't be done.

Again, that's not what you said.---That is correct, that's what I, that's what I meant.

Excuse me, please. Now, can I take you please to Exhibit 109, and if you could read this transcript of a telephone conversation with your daughter and your son-in-law on 5 January, 2016, commencing at 6.50pm. Can I just check that you follow how the transcript reads? That is to say, where it says Hawatt 2, that is a reference to your daughter, I'm sorry, I do apologise, Laila. And where it says El Badar, obviously that's your son-in-law. ---Yeah. So do you want me to read the whole lot again?

If you wouldn't mind, please.---Yep.

Can I ask you to go to page 4 and maybe back at the bottom of page 3. Mr El Badar said to you, "I seen your mate today," and then you established that – Mr El Badar, this is page 4, fourth entry said, "Spiro, and he sends his regards." And you said, "I just saw him about, about an hour ago." Your son-in-law said, "Didn't he say anything to you?" You said, "No, he didn't say anything." Talal asked, "What's happening?" You said, "Did he fix up the problem?" And Talal said, "Yeah, he's been a bit harsh. I told him you're being, you're a bit too hard, but, no, he solved it, he solved it, God willing." This demonstrates, doesn't it, that as far as you were concerned, Mr Stavis had done what you had hoped he would do, which is provide Talal with a solution for the problem that had led to council being in court in dispute with your son-in-law and his co-investor about Willeroo Street? ---Well, the solutions, of course, that's part of their job to find legal solution, not illegal solutions, and presumably he found a legal solution.

I'm going to read to you from the transcript of the evidence you gave this morning, Mr Hawatt. Page 6672. Question, "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?" Answer, "I don't recall. Actually, I probably didn't. I didn't want him to think he's doing us any favours. Kept it neutral." Question, "What did you mean by that answer?" "I didn't want him to think that I am going to pressure him to know that he is my son-in-law and pressure him thinking that he is going to help me so I kept it neutral. I kept it out of it to treat him like any other person." You've read the transcript of the conversation that you had with your son-in-law on 5 January, 2016, at 6.50pm, Exhibit 109, haven't you?---Yep.

You can see that you did, in fact, contrary to the evidence that you've given, indicate that he should tell him that he was your son-in-law or that you were his father-in-law?---But on this one, here – sorry, what, what - - -

Page 8. I'm sorry, my mistake, page 6 of the transcript. The second, I'm sorry, the third entry you said, "Could you, could you, I was with him now not long ago but if you have any issues, call him back and just say it's, Michael, councillor, is my father-in-law."---Yeah, but before that he didn't know. He didn't know that.

10 THE COMMISSIONER: What about the entry phone number page 4? Just if you can go back to 4 where Mr El Badar says that, "I seen your mate today." "You saw who?" "Your mate." "Who?" "Spiro." Then he says in Arabic, "And he sends his regards." That suggests that Mr Stavis knew the relationship between you and Mr El Badar. Otherwise, why would Mr Stavis be sending you his regards?---Because I organised the meeting with them, to get together and, and discuss the issues and after the meeting, he says, probably says, "I'm going to see Councillor Hawatt," at the time, "I send him my regards." It's, it's a, it's a general comment, Commissioner.

20 MR BUCHANAN: Going back to page 6, why did you want Talal, if he had any issues, to call Stavis back and say that "Michael, councillor, is my father-in-law"?---Just looking at that, because he says, I mean, here I said, no, he doesn't know, at the first, the first discussion here. Which page is it? I read it. Well, I said, "Did he know you're my father?" I said, "No." And then I said at the end, I said, "Well, after the issue's been resolved, tell him you're my son-in-law."

30 No, it says, "If you have any issues, call him back and just say Michael, councillor, is my father-in-law."---Yeah, if he have issues, but they resolved, that's correct, but the problem has been resolved so there's, it's not going to make any difference anymore.

The evidence that you gave this morning on this subject was false to your knowledge, wasn't it?---No, it's not. During the period of the assessment, he didn't know (not transcribable) son-in-law. And then I said to him right at the end, after they resolve the issue, then, then you can tell him he was my son-in-law. But then if you read here, I read it, where is it? I just read it here. It says, "Did he know I was your son?" I said, "No."

40 And on page 4, as the Commissioner pointed out to you, Mr El Badar said to you that Spiro Stavis sent you his regards.---Because of the, they had a, he does that all the time, Mr Stavis. He always tells people, I arrange meetings, just pass my, say hello to Michael. Can I read this again quickly? Just because there's a, I did make a comment about not knowing that I was his son-in-law.

THE COMMISSIONER: Page 5 of 7, at about point 6 you ask, "Does he know, does he know you're, does he know you're my son-in-law or not?" And Mr El Badar says, "I don't think so."---That's correct.

Is that what you were referring to?---Yeah, that's the one, yes, yes.

You said that the issue had been resolved, but is that the case?---Well, he said, he said he found a solution. If you can see at the end, he said I found, because he, he was whinging, he said, "He's hard, he's hard," but he found a solution. So, and then after that solution I said if you, there's more problems, then tell him I'm your son-in-law. But from my understanding, the problems have already been resolved before he knew I was your son-in-law. I just can't work that one out.

10

It just seems from what Mr El Badar says at page 6 of 7 is that there's still an issue about this third room, where there was a concern that if it was a study and was of a certain dimension, it might become a third bedroom, which wouldn't be allowed. And from Mr El Badar's account there, it seems it's something he still wants to pursue. And - - -?---Well, from my understanding he was happy reading this. He seemed to be happy with the, the meeting he had with Mr Stavis, and that's when, well, that's when at the end I said, well, if you have further issues, just mention it, and that's it. There's nothing, nothing sinister in there. They already resolved it based on this.

20

MR BUCHANAN: Now, you were talking to Talal El Badar about the 51 Peshurst Road, Roselands site as well, weren't you?---Have we finished with this?

Yes, although keep it there in front of you, if you wouldn't mind, please. ---I'll keep it there, yeah, but (not transcribable)

30

Sorry, my question was, you were also talking to your son-in-law about this other property at 51 Peshurst Road, Roselands.---When, at the, when, on this one?

Well, let's start again. You were talking to your son-in-law in 2014-16, specifically 2015-16, about two different properties.---This is a different question altogether, then, linking to this. Yeah, he asked, he had some issues again with the Peshurst one. Stormwater issue.

40

And that was a property which was occupied by your daughter and your son-in-law?---Yes, and her, and her father-in-law.

And her parents?---And his parents.

And his parents, thank you. And it was owned by whom, as you understood it?---I think both his parents, or his father and, and my son-in-law.

Commissioner, I apply to have a section 112 order varied in respect of evidence given by the witness on 5 December, 2016, page 753, lines 1-18.

THE COMMISSIONER: I vary the order made under section 112 of the Act to exclude the evidence given by the witness on 5 December, 2016, as recorded in the transcript of his examination commencing at page 753, line 1, and concluding at line 18.

VARIATION OF SUPPRESSION ORDER: I VARY THE ORDER MADE UNDER SECTION 112 OF THE ACT TO EXCLUDE THE EVIDENCE GIVEN BY THE WITNESS ON 5 DECEMBER, 2016, AS RECORDED IN THE TRANSCRIPT OF HIS EXAMINATION COMMENCING AT PAGE 753, LINE 1, AND CONCLUDING AT LINE 18.

MR BUCHANAN: Mr Hawatt, I'm going to read to you from the transcript of evidence that you gave on 5 December, 2016 to the Commission, and then ask you some questions about it.---Yeah.

Question, "What did you do after you spoke to Mr Stavis about the stormwater? Did you go back and tell Mr El Badar what Mr Stavis had said?" Answer, "No. I just said to him, whatever email I got in response, I just let him know." Question, "You forwarded Mr Stavis's emails to Mr El Badar?" Answer, "I forwarded, or just let him know, or printed it out and," sorry, "printed it out, gave it to him, I can't remember." Question, "Okay, and did you ever tell Mr El Badar to tell Mr Stavis that he was your son-in-law?" Answer, "No." Question, "Never?" Answer, "I never told him to tell him, no." Question, "Not if he had any problems or anything like that with council?" Answer, "No." Question, "He should say he was your son-in-law?" Answer, "I never ever used my position to influence others." Question, "Okay." Answer. "And I've been 20 years on the council." Did you hear me read that evidence?---Yeah.

When you told the Commission on 5 December, 2016 that you never ever told Mr El Badar to tell Mr Stavis that he was your son-in-law, that was false, wasn't it?---Well, it's, it sounds it is. I mean, I truly believed that was the correct comment I made at the time.

You knew at the time, of course - - -?---No, I didn't know.

40 You knew at the time, of course, that you had been dealing with Mr Stavis on behalf of your son-in-law in relation to two separate properties.---Yes.

You knew that on the time you were giving evidence on 5 December, 2016?---Yes.

And when you were a councillor, you knew it was wrong to use your position as a clear to get preferential treatment by council of an application made by a relative of yours, didn't you?---Yes.

And you knew when you were a councillor it was wrong to use your position as a councillor to get preferential treatment by council of an application made by any other development proponent whom you were supporting, didn't you?---When you say supporting, I don't understand. That's incorrect. I mean, supporting as far as I believe they're correct or, or what they want? There's a big difference between – I mean, how do you want me to answer it? If I believe what they're telling me is correct, I would say yes. If I didn't believe what they're telling me was correct, I would say no.

So if you thought what they were telling you sounded like a good thing, you were happy to organise preferential treatment by council of that proponent's application?---I would have, I would have made representation to find out exactly what the outcome is from the assessment staff, from planners, and what the feedback I would have got, and if it's reasonable, if it's okay in regards to what they're saying is correct, then I'll pursue it. And if they would have said, look, there's, it's impossible, we can't support this, then I would normally say, "I'm sorry, I can't help you."

Whatever criteria you used for deciding whether or not to support a particular application, you knew, didn't you, that what you were trying to do was gain for the proponent an advantage which other proponents whom you didn't support wouldn't get.---No, that's incorrect. That's incorrect.

You would obtain, you would – I withdraw that. You would intervene on behalf of development proponents to have their problems with planning controls solved.---If I believed in what they're doing, if it was part of the, for example, it was the CBD within Campsie or on main, main roads and they're giving something back to council in regards to council, in regards to laneways, in regards to greater setbacks, depending on the position, I will support it. But if they don't do that, I'll support residents against developers who wouldn't do that, and I'll support applicants who, who gave something back to council. So if they gave us a good planning proposal that's a benefit of the, of the public, then I support it, and especially if it's on, on main roads and areas that needed an upgrade of, to, to improve the, the looks of the area.

But what you were trying to do was to ensure that planning controls were mitigated or set aside or softened or not a control, not effective as being a control. That's what you were trying to achieve for the people on whose behalf you intervened.---I can't, I can't make assessment for, on behalf of people. I can make representation in their, to support them, but I cannot assess their application. I never assess an application and make recommendations. The recommendations goes back to the staff.

Now, after the telephone conversation in Exhibit 109 that you've read, and I think you've still got the transcript of there, if I can take you to volume 6 in Exhibit 52, page 6. Message number 6.---Yeah.

I'm sorry, excuse me a moment. Yes, at 6.57pm, so shortly after that telephone conversation, you sent this text message to Spiro Stavis in relation to Willeroo Street, Lakemba, is that right?---(not transcribable)

10 I'm sorry, sir, it should be at the – yes, it's at the top of the screen and the message is on the right-hand side. It commences, "23 Willeroo Street, Lakemba."---So the second one.

"Two square metre study. Doesn't that sound ridiculous?"---Yeah. If I sent it, I sent it, yeah.

20 So you were trying to, you were sort of pouring scorn on what you had been told was the position of council in relation to the dimensions of the room that was called a study in the plans that your son-in-law had, is that fair to say?---Well, if he said to me they said it's going to be a bedroom, a two square metre, it doesn't make sense.

You see, this is not an enquiry, is it? You're trying to influence the position taken by those that were assessing your son-in-law's application.---I make my own judgement, with the, the planning you should ask the question - - -

No, no. Doesn't matter what your judgement is.---Correct.

30 What you were trying to do was to influence the assessment.---No, I make my – I don't, this, this doesn't, this hasn't gone to the assessor, the assessment planner. This has gone to Spiro. The, the planner himself assesses it. I don't think he's seen this.

Spiro was that person's boss, wasn't he?---Doesn't matter.

You knew that.---He would have, he, he, wouldn't have - - -

40 Sir, you knew that Spiro Stavis was inevitably the boss of whoever was assessing the plan?---Correct. But he doesn't assess what they do on their, on their own.

And the reason that you spoke to Spiro Stavis was to get him to intervene on behalf of your son-in-law, wasn't it?---If, if this is correct, if I would have made an enquiry or a call that I believe that it's ridiculous saying that a two square metres could be converted to a bedroom, as an example, well that's my right, saying that's silly, that's a silly thing, Mr Stavis.

You're intervening in the assessment process, aren't you?---I always said – no. I don't interfere, I make my own judgement and I've said that many times.

Yes, but it doesn't matter whether you made your own judgment or whether you were just simply a megaphone for your son-in-law, the fact of the matter is, you were trying to influence the assessment process, weren't you?---No, no. That's incorrect.

10 Excuse me a moment, please. Now, was there a stage at which you understood that council assessment staff were not satisfied with the amended plans that were provided as part of the mediation process to council, and council staff proposed that the mediation process be terminated with a view to the formal court proceedings being resumed? Do you remember that happening?---No, I don't recall.

If I can ask you to have a look at page 171, please, of volume 6. Can you see that at the bottom of that page – and going over to page 172, but just all you need to look at is the bottom of page 171 – is an email from Talal to
20 Spiro of 28 January, 2016, at 12.15pm.---Ah hmm.

And then towards the top of the page there's an email the same day at 1.37pm from Spiro Stavis to Abdullah Osman, Talal El Badar and yourself in relation to 23 Willeroo Street, Lakemba, without prejudice. Can you see that?---Yeah.

And Mr Stavis, in other words, was copying you in on his response to the complaint of Talal El Badar in relation to the suggestion that the mediation process would be suspended or terminated, saying, "I've never seen the
30 amended plans so I'm not in a position to confirm anything let alone my support. As I explained to you, I will review before 3 February and advise if I believe the changes reflect what was discussed at our without prejudice meeting on 5 January. I've only just returned from leave." You responded to Mr Stavis and we can see that it's at the top of the page at 3.44pm, "Thanks. Can you resolve this."---Yep.

Again, you wanted to ensure that a solution was provided to what would otherwise be an unsatisfactory outcome for your son-in-law. That's right, isn't it?---No, it's not right. That's a normal response I would make to
40 anyone on behalf of anyone.

To try to achieve a favourable outcome for them when they're negotiating with council staff?---I've just made my inquiry, representation and I made my own decisions (not transcribable) - - -

No, no. I'm just focusing on what you said a moment ago. I would do this for anyone.---Correct.

So what you were doing was intervening in the work of council staff with a view to achieving a result that was favourable to the proponent for whom you were an advocate.---I make - - -

Weren't you?---I make representation to help not to – when I make a representation on behalf of an applicant it's there to actually go and help them, not to do any other, anything else but to represent them and support them. That's my job.

10 Can I take you, please, to volume 5, page 295, SMS number 516. So it's on the screen in front of you. It's the last one at the bottom of the screen and it's dated 31 January, 2016 at 12.23pm and it's a text you sent to Spiro saying, "Hi, Spiro. What's the issue re 23 Willeroo Street, Lakemba? It's within the FSR and height limit and meets objectives of setbacks and is an isolated site. Why council is playing hardball? Let me know. Michael Hawatt." Do you see that?---Yeah.

20 Again you were intervening to try to soften the approach that council was taking in its negotiations with your son-in-law and his co-investor, weren't you?---No. I just believe what, what he was telling me is, is correct and I, I made further inquiries on it. To me that is a very normal reaction that I do with everybody.

Mr Stavis responded, if we go over to page 296 in volume 5, message number 517 at 1.24pm the same day, "Hi, Mike. I'll show you tomorrow when we meet what I'm getting at. He can get what he wants but I think the architect and his solicitor is giving bad advice. Cheers." Do you see that? ---Yeah.

30 So that would have satisfied you up to a point?---Well, he's just telling me progress. What needs to, what needs to be, what the issues are. He's basically saying there's still a problem. I'll show you what the problem is.

But he's saying, "He can get what he wants". That's a reference to Talal El Badar, isn't it?---If he makes the, the changes that sounds like Mr Stavis wanted.

40 Which your son-in-law was complaining about and you characterised as playing hardball.---Yes.

Do you remember having a meeting with Mr Stavis in which he showed you what he meant?---Oh look, I don't recall but I had many meetings with Mr Stavis and I don't recall whether that particular one I met him or whether I met him with others. I just can't recall that one.

Could we show Mr Hawatt, please, the transcript in Exhibit 111, a telephone conversation which was recorded on 3 February, 2016 commencing at 9.04am.---Yep.

And if I can provide you with the information that some calls which are in evidence are extracts of the calls, not the whole conversation. This is an example of that. There was more in the conversation after the material which is in the transcript that you've read, but it's been cut out because it's not relevant to the enquiry.---Mmm, yeah, understand.

10 Excuse me a moment. Page 1 of the transcript, can you see that it appears you did have a meeting with Mr Stavis?---Yeah, I, I must have, yeah, yeah, yep.

20 "I saw him last night." Now over to page 2, "He told me, he said there was, you and him had to come to a compromise." Talal laughed and said, "Something like that, but he didn't get back to me." And I'll skip the rest of that. You went on to say, "He told me last night that eventually, that you were stubborn and he was stubborn, and eventually halfway to come," and Talal said, "Praise to God, so a hundred per cent it's good?" as a question, and you said, "Yeah." He said, "Based on what you agreed with, yeah, it's all good." And then a little further down, you see, "I'll talk to him, he's told me last night, but you sent it, have you, the changes?" and Talal said, "Yeah, I sent to him." You then said, "Well, everything's okay from what he told me last night." And then on page 3, Talal asked, "What time was this?" and you said, "8.00, 8 o'clock, 8 o'clock last night, or something, 9 o'clock last night." My question is, where did you and Spiro Stavis meet on this occasion?---I, I can't recall the, really, that meeting. I don't recall it.

30 Do you recall having a meeting with Spiro Stavis in which he indicated that Talal and him had both been stubborn when they had got together, but that there was compromise, it would seem, on both sides, and that your impression was that based on what Talal and Spiro had agreed, it was all good, do you remember?---Maybe it's, maybe, yeah, could be that, from that meeting, but where I met him, I don't know. I can't recall.

8 o'clock is after usual business hours. My question is, why were you meeting Spiro Stavis out of usual business hours on this occasion?---Where does it say, I can't - - -

Oh, I'm sorry, it's page 3.---Oh.

40 Fourth entry, when your son asked - - -?---(not transcribable)

Oh, sorry, your son-in-law asked you, "What time was the meeting?" and you told him, "8 o'clock, or something, 9 o'clock," the previous night.---I, I don't, I don't - - -

On the third page.---I don't recall. Unless it was a function or an event or council meeting. Oh, that could have been the council meeting, workshop, it could be a million reasons why he was, because we finish late, if we have

a workshop, sometimes we finish at 8.00, 9.00. If we have council meetings, sometimes we finish later than that. Depends. I don't know what's, what happened.

Did Mr Stavis ever meet you at your residence?---Oh, he might have been there once. I don't recall.

And what's the once you're thinking of?---I don't recall but I, I remember he came once. But for what reason, I don't, I don't remember.

10

Did you meet Spiro Stavis at Pierre Azzi's house after Spiro started work as director of planning?---Again, I might have met him with Jim Montague. I can't recall.

That's all in relation to that exhibit. Thank you. So if I can take you, please, to another text message, volume 5, page 296. Message number 526. This is on 3 February, 2016, at 9.12am. You texted Spiro Stavis, "Hi, Spiro. Willeroo Street amendments were sent yesterday afternoon. Have you seen them? Is it okay now so I can tell him? Thanks. Michael."---Yeah.

20

You understand Willeroo Street amendments to be amendments to the plans?---Yes. The compromise, maybe. I don't know what it is, yeah.

And is it fair to say that you were trying to move Spiro along here to tell you as soon as possible that the recommendation will be that the application be approved?---My son-in-law must have been impatient and asked me to just follow it up for him.

30

Excuse me a moment. Now can the witness be shown the transcript in Exhibit 112, please. And if you could read that, please, to yourself. And can I tell you that what I would like to ask you about is material starting on page 3.---Yeah.

40

On page 3 of the transcript, you asked Talal, "How did you go with Spiro finally?" He said, "Yeah, no, he was good, it was good, no, it was all good, no, he, now I know why he was being a bit hard, because of that Australian donkey." You said, "Yeah, I think he wants to show," something was inaudible, and eventually you said, "Yeah, but he's okay. You got everything." And El Badar, your son-in-law said, "Yeah, no, no. It's all good. Praise to God. Thank you very much, Uncle." You said, "That's all right, no problems." Your son-in-law seems, in that conversation, to think that he had something to thank you for, indeed, thank you very much for, you'd accept that?---Ah hmm.

And what he had to thank you for was your intervention with Spiro Stavis so as to bring about a result where litigation was abandoned and there was an agreement between Talal and his colleague on the one hand and council

on the other, as to what plans or details of the proposed development could be approved. Is that fair to say?---Yep.

So is that something that you did regularly, that is to say, intervene with council's assessment process via using Spiro Stavis to achieve a result that meant that the developer got a better outcome than they would have if you hadn't intervened?---I make representation and I get satisfaction in helping people and getting results for them. That's my, that's my satisfaction that I, I get out of it.

10

But the satisfaction, is it as a result of you achieving something that wouldn't have been achieved if you hadn't intervened?---Not really. If it would have went to mitigation, it probably might have achieved a better result, a better outcome. Only God knows. I mean, you can't say for them to pull, pull out the, the, court litigation or, sorry - - -

Start again. That's okay.---I'm losing words here.

That's okay, you start again.---I'm getting tired, I'm getting a bit tired.

20

What I'm saying is, if they would have went, continued on with the process they're following, they could have got a better outcome. We don't know. Only God knows what the outcome could have been. My involvement is this, is I done an enquiry on their behalf. I followed it through and I done the, the right thing on behalf of, of these people that had, well in this particular case, happened to be my son-in-law and, and get, achieve results for, for them and I get satisfaction in helping people and achieving good outcomes for them.

30

But we do have some idea what would have happened if you hadn't intervened. There would have been a court case.---Correct, absolutely, and they could have got a better outcome from that. I don't know.

Well, your son-in-law didn't seem to think so because he wanted you to intervene and you were happy to do that.---No.

Not saying to him, "Oh, look, I might muck it up for you."---No. They were going to court either way. They were going to court but it's something that I, it's, I said, "Look, let's see what, what can be done."

40

With a view to achieving for him an outcome that he wouldn't have got if you hadn't intervened.---That's, that's incorrect. It's just incorrect. I done this for, just look at my history, you've probably got hundreds of my emails, and you'll see consistencies with the way I represent people.

Yes, would this be a convenient time for a back stretch break?

THE COMMISSIONER: Yes, it would be. Yes. We'll adjourn for five minutes.---Thank you.

SHORT ADJOURNMENT

[3.14pm]

THE COMMISSIONER: Now, just before we continue. Mr Drewett, I am a little bit concerned that when we get to around this time of the day, Mr Hawatt is getting tired. Did you have a chance to have a quick word at the break?

10

MR DREWETT: I didn't. On my observations, he's showing signs of fatigue at around about this time, and perhaps understandably so, given the procedure some days ago.

THE COMMISSIONER: Can I ask, Mr Hawatt, are you happy to continue for another, say, half an hour or would you prefer to pull up stumps now or - -?---If you'll allow it, I'd prefer that because I, I feel a bit sore, yeah.

20

All right. Look, can I say to you, I know that you went through the operation the other week and my observation is you start off after a night's rest well but you do start flagging around this time. What I would ask you is if around this time you do start to feel fatigued and have trouble, you know, phrasing your answers, can you speak up because we'll either try and have a break or pull up stumps a little bit earlier. But today you would like to finish now?---Yeah, because I'm just trying to help out to finish as quickly as possible.

30

No, no, no. And we're very grateful for that but I don't want you to become ill again.---I could hardly sleep for two nights.

Sorry?---I haven't slept for two nights properly.

All right. Well, look, sorry, Mr Buchanan, my view at the moment is we'll finish today. Tomorrow, I should indicate we'll only go through until 4 o'clock so I would be grateful if you could continue to give evidence to 4.00 but we'll check. We'll have our back-stretching break at an appropriate time but otherwise – oh, any other issues?

40

MR MOSES: Just that tomorrow is the one-year anniversary of the inquiry, Commissioner.

THE COMMISSIONER: Oh, thank you very much for reminding us, Mr Moses.

MR MOSES: You can bring the birthday cake, I won't be here but you can celebrate in my absence.

THE COMMISSIONER: All right. Okay, then. All right then, we'll adjourn until 9.30 tomorrow morning.---Thank you, Commissioner.

THE WITNESS STOOD DOWN

[3.24pm]

AT 3.24PM THE MATTER WAS ADJOURNED ACCORDINGLY

[3.24pm]