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30/04/2019

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INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC
COMMISSIONER

PUBLIC HEARING

OPERATION DASHA

Reference: Operation E15/0078

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 30 APRIL, 2019

AT 9.45AM

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THE COMMISSIONER: All right. Mr Buchanan.

MR BUCHANAN: Commissioner.

THE COMMISSIONER: Natasha, sorry, no administration or - - -

MR BUCHANAN: Not unless the question of sitting dates is to be addressed now, or should it be later?

10 THE COMMISSIONER: I'm sorry, I'm messing everything up. Mr Hawatt has the Koran. We'll swear Mr Hawatt.

THE COMMISSIONER: Thank you, Mr Hawatt. Now, Mr Buchanan, I understand that an email was sent to everybody yesterday?

MR BUCHANAN: That's so.

10 THE COMMISSIONER: So we'll proceed with your examination then Mr Moses indicated yesterday he's ready to start, but tomorrow morning we won't commence until 12 o'clock.

MR BUCHANAN: May it please the Commission.

THE COMMISSIONER: Right.

MR BUCHANAN: Mr Hawatt, I'd like to ask you some questions, please, about the Canterbury Council Code of Conduct.---Yeah.

20 We talked a little bit about it yesterday. You were a member of Canterbury Council in the year 2000, weren't you?---Yes.

In the year 2000 Canterbury Council introduced a code of conduct, you recall that?---I don't recall it, but yeah, they would have, they would have had one.

And you would have been aware of that, wouldn't you?---The code of conduct?

30 Yes.---Yeah, well, that's yeah, at the time, yeah.

And you would have been aware of what it provided, what it said?---Look, I'm aware from discussions we've had, from like, could have been from a workshop that we had at that time so - - -

In the year 2000?---Maybe, yeah, maybe, because there was an introduction to councillors, new councillors at the time.

40 And of course you agreed with its introduction, didn't you?---Yeah, it's, we all had to accept it. Correct.

Well, can I just pick you up on that. You make it sound as if it was something that was foisted upon you against your will.---No, no, just it's something that's part of the, under the Act we need to follow it through.

But did you think it was a good thing for council to have a code of conduct when it was introduced in the year 2000?---Well, I never, I never knew what a code of conduct was at that time, I have to honestly say, when I first got

in, I've never come across a code of conduct in that regard so I didn't really take it to that understanding where the reason really behind it at that time. I, I didn't sort of take it too strongly because I didn't understand initially what the code of conduct really was at all.

And so in order to learn about that which you didn't previously understand, you would have acquainted yourself with what a code of conduct was and what it said, wouldn't you?---It was more to do with common sense approaches, like you know, doing, doing the right thing.

10

No, that's not, that's not my question. My question is, your conduct in the year 2000 when this came before council would have been responding to the fact that you didn't know much about codes of conduct, to acquaint yourself with what it was that was being proposed, that there be a code of conduct for Canterbury Council councillors and staff.---Well, it's always there, but as I said, I didn't understand because everything was controlled by, I don't know, it was controlled by the Labor Party at the time and they still did, but they used to caucus on everything and decisions were made sometimes just like the things are moved and decided upon by the caucusing of the Labor Party and, and we as a minority councillors at the time, we really didn't have much, much input or say into a lot of things because everything was just decided before even the meeting was put together.

20

Well, let's put it on the table. Did you vote in favour of the adoption of the then code of conduct in July 2000 when it was introduced at Canterbury Council? Did you vote in favour or did you vote against it or did you abstain?---Well, I mean if I was there at that meeting, I just can't recall it, I would have voted for it, of course.

30 You would have voted for it?---Yes.

And why would you have voted for it?---Because it was recommended. I mean from my understanding it's a, it's a process that's needed and it's a, it's a requirement under the Act, so that's why I would have voted for it.

And did you think that was a good thing?---I, I never took it into, really, as I said, I didn't understand at the time what the code of conduct entailed and all I knew is it just, councillors doing, understanding their, their objectives and, and what they need to follow in regards of acting as a councillor, that's basic, it was like a general common sense approach that we sort of took upon, upon us, not specifically to the T of what's in there.

40

And why was it a common sense approach?---Because you know common sense is common sense. I mean, you know, you, you, you help people, you follow up people, you, you know, you act in a, in a transparent honourable way and that's, that's where I've always stood by.

And you preserved the integrity of council decision-making?---Of course.

That's common sense, isn't it?---Yes.

Yes. You knew, didn't you, in July 2000, when the code of conduct was introduced at Canterbury Council, that it had a clause in it, clause 4, which separately, which talked about avoiding conflict of interest and said that councillors needed to avoid conflicts of interest. You understood that?

10 ---I knew there was a conflict of interest in regards to general common sense, but if you go back to 2000 and you tell me what's in there, I wouldn't have a clue what was in there at the time.

So you knew from the year 2000 it was necessary to avoid conflicts of interest, didn't you?---Well, it's generally what we're told - - -

Please, please.---I'm just, I don't - - -

Did you know or did you not know from the year 2000 that you as a councillor needed to avoid conflicts of interest?---I, I, I, look, yes, but I don't, I don't recall it to that extent, no.

20

And you read, didn't you, the code of conduct which was introduced in July 2000 that identified separately pecuniary interests and non-pecuniary interests, didn't you?---If you want my honest opinion, I don't remember this. I don't recall 2000. You're asking me 2000 what's in there and what - I wouldn't have a clue.

But you accept that you would have read the document that you were being asked to adopt for the first time, particularly since you didn't have an understanding of it before it was introduced.---Oh, I, look, I don't recall.

30

And we're talking about 2000, here.

I'm not talking about your recollection. I'm talking about your behaviour and your - - -?---My behaviour's always - - -

- - - sense of responsibility - - -?---My behaviour's always been honourable.

- - - as a councillor, Mr Hawatt.---Yeah. It's always been honourable.

40 Thank you. And an honourable councillor pays attention to what they're doing when voting on matters at council. Don't they?---Oh, look, after a while, being that - - -

Please. Yes or no? Isn't that what an honourable councillor does?---Yeah, but not always, because of the way the caucus system used to work at that time. Wait a second, I, I, I didn't have the numbers to, even to debate it. I used to, if, if I got up to debate something.

Why did you bother being a councillor?---Well, many times I wanted to go, and just people saying, look, can you stay on? You know, you're, you're doing a job, you're representing us. So, you know, many times I wanted to go, yes.

10 You knew, didn't you, in July, as at July 2000, that the code of conduct defined non-pecuniary interests as, "Any private or personal interest that does not pertain to money (e.g. kinship, friendship, membership of an association, society, or trade union, or involvement or interest in an activity)," didn't you?---Oh, no, I didn't, I don't recall all that, no.

It makes sense, though, doesn't it?---Look, common, if you use common sense, I use common sense approach, but I don't recall what's in there.

20 No, no, no, no. It makes sense, doesn't it, that the requirement to avoid a conflict of interests would analyse the types of interests which might be involved and might separate them into pecuniary interests and non-pecuniary interests, and might then define non-pecuniary interests as including relationships such as friendships. That all makes sense, doesn't it?---No, friendship, oh, look, it's, as I said before, yesterday - - -

Doesn't it make sense?---No, it doesn't make sense sometimes. The friendship depends - - -

I see. So you, did you - - -?---Depends on friendship here.

Did you say at the meeting at which the code of conduct was to be introduced, "This doesn't make sense"?---No.

30 Have you ever - - -?---But I - - -

- - - ever, when the code of conduct has come before council, said, "This doesn't make sense"?---I didn't understand it at the time.

Please. Have you ever said that in debate at council when the code of conduct has come before council - - -?---I may have, I - - -

40 - - - that it doesn't make sense?---I may have, but I don't recall from 2000. I mean, you're asking me to go back to 2000 and, and, and, and go into details. I'm giving you some just general opinions that I have. But in regards to going back and understanding the clauses and all that, I, I wouldn't have a clue what was in there.

Have you tried to change the code of conduct in any respect?---It's left to the, the staff to do that, not, not, not to the councillors.

Well, sorry, you know, because you've been involved in it, that the council adopts a code of conduct.---Correct.

It's up to the councillors.---But it's from the report that the council staff prepare, and we normally follow the council staff's recommendation.

Well, that's not what happened in 2013, is it, because Mr Montague proposed a particular clause be introduced, and after the workshop, which you caused to take place, that recommendation was changed, wasn't it?---I don't even, I don't even remember or recall this changes.

10 Well, you've seen the evidence of it - - -?---I saw the evidence - - -

- - - you accept that that's what happened.---That's what happened, but I don't recall it.

Yes, well, doesn't it necessarily mean that the recommendation in relation to the code of conduct was not followed?---Look, I don't recall this changes that were there.

20 Mr Hawatt, can you listen to my question, please? Doesn't what occurred as you now know in 2013, in which you were involved necessarily mean that the recommendation of the officers, in that case the general manager, was not followed?---I, I don't remember this.

Therefore it means, doesn't it, that councillors had a say in what went into or came out of a draft code of conduct?---I don't recall who - - -

30 You understand that, don't you?---No, hold it. I don't recall who made those changes. It was changes that were made by – I think you, if I remember, Andy Sammut.

You've seen that Andy Sammut said that the change was as the result of clarification - - -?---At a workshop.

- - - during the councillor workshop.---Correct. So what's it got to do with me?

So we know it came out of the councillor workshop. Correct?---What has it got to do with me? If it came out of a workshop - - -

40 Because you are a councillor.---I'm one of 10.

Yes.---Yeah, one of 10.

And you were the one who wanted - - -?---Suddenly I become the dictator, am I?

You are the one who moved that the draft code of conduct in 2013 be deferred to allow for a councillor workshop to consider it, aren't you?
---That's was, that's under the request probably from the staff, or the councillors, they needed to understand what was going on. That's, no, it's normally I move motions, yeah, that's always. It doesn't mean I own the motion. It doesn't mean I own it.

10 You didn't complain, did you, about the provision about avoiding conflicts of interest including non-pecuniary interests, which included friendships, did you, ever?---In, in, where, in - - -

Ever.---I said depends.

Ever.---Ever for what? If there was a, if there was – I will repeat what I said yesterday, if there was any financial or conflict of interest, I would have - - -

20 Please, can you answer my question? Did you ever complain about the provisions of the code of conduct at Canterbury that dealt with conflict of interest, specifically the provisions in relation to non-pecuniary interests, which were defined as including friendship? Did you ever complain about them?---I don't recall this. I don't, I don't - - -

You don't recall making a complaint, do you?---I don't recall it.

So you might have made a complaint and you now don't recall it, is that what you're saying?---No, I, I don't recall making a complaint, I'm talking about - - -

30 That's not an honest answer.---It is an honest answer. I, what do you expect me to, I, I don't make the decisions on council. I mean you're making out as though I'm the dictator and everything belongs to me. It doesn't all belong to me. We moved a motion on behalf of the staff.

40 Mr Hawatt, if you were so concerned about friendship being defined as a non-pecuniary interest not making sense then it is inconceivable that either you didn't complain about it or that, if you did complain about it, you no longer have a memory of that.---It's, it's up to the individual councillor at the time to declare an interest, whether it's pecuniary or non-pecuniary. It's up to them to make that decision.

Can I take you to a couple of further documents, please. I want to show you a document dated 12 August, 2014, being a circular from the then Department of Local Government, headed Draft Model Code of Conduct, and it's a one page document and underneath that is a document headed Department of Local Government Draft Model Code of Conduct and Guidelines, August 2004. Now, I won't ask you to read the whole document but do you see that at the top of the page that is the front page it

says, "The Local Government Act requires councils to prepare or adopt a code of conduct"?---Yep.

And do you see that the next page is Draft Model Code of Conduct and Guidelines, dated August 2004?---Yep.

10 You saw this document, didn't you, as part of the business papers that were considered by council when it adopted the draft model code of conduct as the Canterbury Council Code of Conduct, didn't you?---Are you trying to tell me I remember 2004 when I saw this document? I wouldn't have a clue.

THE COMMISSIONER: Mr Hawatt - - -

THE WITNESS: No.

THE COMMISSIONER: So you didn't see it?---I don't recall it.

20 All right.---It was, like, 2004.

Just answer the questions, Mr Hawatt.---I don't recall, I don't recall.

MR BUCHANAN: Well, if it was in the business papers when Canterbury Council was considering adopting this draft model code of conduct, you would have seen it, wouldn't you?---I don't recall it.

But that's not the question I'm asking you.---I don't recall it.

30 Please, would you listen to my question. You were a councillor, you received business papers for council meetings, didn't you?---I get hundreds of business papers, hundreds of business papers, hundreds of documents and business papers. It doesn't mean we read them all.

And you had an interest in the code of conduct, didn't you?---No, I never had an interest in the code of conduct.

You were interested in it because you thought that part of it didn't make sense, didn't you?---This, this is your assumptions.

40 No, no, no. No, no. That's your evidence that you've given that in the year 2000 you thought the definition of non-pecuniary interest, as including friendship, didn't make sense.---All I'm saying to you is from common sense approach, I'm talking about common sense, not the document. I'm talking about common sense, not really the document I understand the document, I had the document. I don't even remember or recall a 2004 document like this.

And you would have been concerned, wouldn't you, that council not adopt a code of conduct which, part of which, as far as you were concerned, didn't make sense, wouldn't you?---Why, why, why would I have been concerned at the time?

Well, didn't you - - ?---I never had any say on council whatsoever.

10 You knew, didn't you, that the code of conduct regulated your conduct as a councillor.---Look, 2004 I never had any say whatsoever, it was controlled by the Labor caucus, they made all the decision, whatever document we came through, they made the decision to approve it or not approve it.

Could you answer my question, please?---I don't recall. I do not recall 2004.

20 I'm asking you to accept that if there was a code of conduct, you were required to comply with it. You understood that in the year 2004, didn't you?---I don't, I don't recall the code of conduct in, in this regard. I understood there's a common sense approach to things and that's how I look at it.

Well, let's slow down. Do you mean to say you didn't know in 2004 that Canterbury Council had a code of conduct?---I never, I never understood at that time what the code of conduct was and how, I never took it - - -

So you did understand that Canterbury Council had a code of conduct.---I don't recall it.

30 But you remember not understanding what it was. Is that right?---It just common sense of what you do as an honourable councillor.

No, no, no, please.---That's all I used it, I used my own common sense.

Mr Hawatt, could you answer my question, please.---That's, that's the answer.

40 You knew that your behaviour as a councillor and the behaviour of staff, including senior staff and the general manager, was regulated by the code of conduct, didn't you?---No, I didn't.

THE COMMISSIONER: You didn't?---No, I did not, not at that time. It was all general discussion with the GM and, and, and other councillors, just staff, it's just general stuff. I've never went into details and whatever's in that, in that code of conduct. I don't recall, because Labor were controlling - - -

MR BUCHANAN: Never ever?---Look, I don't recall it.

Never ever?---2004, because Labor were in control of everything at that time, from caucusing to making any decisions whatsoever in regards to, to the code of conduct, whatever it was (not transcribable)

And therefore you decided you had no responsibility to understand the requirements that affected you in your conduct as a councillor.---No.

Is that right?---No. I was like a zombie at that time. We had no say whatsoever.

10

You understand, Mr Hawatt, that you're giving evidence now which is close to contempt of the Commission. You were not a zombie at the time, were you?---In 2004?

Were you a zombie at the time?---In 2004?

That's what I'm asking.---We had no say whatsoever.

20

That's not what I'm asking about your evidence.---My evidence in regards
- - -

You were not a zombie at the time.--- - - - in regards to having any say, any conditions, any move, we could not do anything because they were controlled by the caucus of Labor.

And so therefore you didn't pay any attention to the business before council. Is that right?---Most likely I wouldn't have at the time, no.

30

No business of council at all?---I've done, I've done business, whenever people called me I supported them and helped them, but when it came to the decision-making, moving motions, adopting things, I had no, no say whatsoever.

But you still turned up to meetings, didn't you?---Of course, we had to turn up to meetings.

Why?---Because we were, we were a councillor, we had to turn up, we had to turn up to meetings and, and, and just continue as we normally do.

40

And you still exercised your vote on matters that called for a decision by council, didn't you?---Or we voted, or we voted as whatever's done. My vote at the time wouldn't have made any difference which way I voted because caucus already made the decision on our behalf.

THE COMMISSIONER: So at that stage you say the Labor Party could caucus.---On everything.

So they were really your opponents, weren't they?---Yeah.

And you've said that you were a zombie. You must have been very frustrated with this.---It was very frustrating, extremely frustrating.

Well, it would be in your interests to know about the code of conduct so that you can determine whether any of your opponents who were frustrating you were in breach of it.---Commissioner, I made complaints to ICAC once and
- - -

10 No, no, no, no, no. I'm asking - - -?--- - - - it was political ignored.

But it would be in your interests to know what the code of conduct contained because you could use it as ammunition against your opponents. Do you agree with that or not?---I agree if it worked, but in politics it didn't work at that time, Commissioner, I have to honestly say.

MR BUCHANAN: And you understand, don't you, that the definition of a non-pecuniary interest in the draft model code of conduct in 2004 had not changed, it included a friendship?---Look, I don't recall it. I don't recall.

20

And if I can take you then to – I propose to tender two documents together, if I may.

THE COMMISSIONER: Together, yes.

MR BUCHANAN: I'll take you to another document, please. Can you see that this document is headed Canterbury City Council Policy Register?
---Yep.

30 And that its title is Code of Conduct?---Yep.

And that against the word authorisation appears 20 January, 2005, by council minutes 4. Can you see that?---Yep.

And if you turn over the page, can you see the cover sheet of the Canterbury City Council Code of Conduct?---Yep.

And if you turn to page 13, can you see clause 6.8 towards the top of the page?---Yep.

40

And against the words non-pecuniary, can you see that a non-pecuniary interest is defined as including, "For example, a friendship"?---(No Audible Reply)

The second paragraph, can you see the sub-heading Non-Pecuniary?
---Yeah, yeah. I'm reading it. I'm just trying to work out - - -

The third line, "For example, a friendship."---It depends on the friendship. I mean, friendship, what having a cup of coffee with somebody is, becomes a, a permanent friend? What, I mean, I don't understand, friendship, if I had coffees with every person that I sit with they said I'm a, he's my friend, I've got to declare interest on every one of them?

Now, did you vote against the adoption of this code of conduct by Canterbury City Council on 20 January, 2005?---I, I don't recall that. I'd have to check the, the record. I don't know.

10

Not likely, is it, that you voted against it?---I can't recall it. I don't, if I was at the meeting and it was moved, I would have voted.

No, no, no but just thinking of the likelihood, knowing the way you conducted yourself as a councillor, understanding the type of matter this is and reflecting upon your past conduct as a councillor, it's not likely that you voted against it, is it?---I wouldn't have read it. I wouldn't know what's in there, that's most highly likely.

20

And just out of curiosity, why wouldn't you have read it?---Because it, during that period, yes, there is a lot of frustration during that time, where we just felt like we could not do anything, whatever they just moved it, pushed it and we just supported everything they did.

So does that mean you read nothing that came before council?---No, I read whatever people asked me to, to follow up, I focussed on that, not on the general, no.

30

And if, if the general manager prepared an agenda which asked you to consider the adoption of a draft model code of conduct, you wouldn't have complied with the request as a councillor?---No. It, it, look, the caucus made their decisions and they moved everything and we, whether, we don't even second it, we don't even debate it. It just moved and, and adopted, moved and adopted, voted on, moved and adopted without anybody proper debates or anything like that at that time.

But you would choose, would you, to remain ignorant of the business at council in which you were involved, exercising your vote as a councillor, is that right?---We, we had, no, we had no say whatsoever during that period.

40

You would choose to remain ignorant?---No, no.

Because you had no say for whatever reason?---We had, we had, no, we had no say, we had no, it was frustrating. We had no say, we couldn't do anything. So everything was adopted and moved without any proper debate, proper democracy.

And so for that reason, you would choose to remain ignorant of the business of council upon which you were voting, is that what you tell the Commission?---That's what happened during caucus period and that was the frustrating part and if you tell me to go back to 2006 of '05, I don't recall anything in there like that.

10 Your evidence, Mr Hawatt, on this is tending to suggest that you protesteth too much, by which I mean you know you knew what was in the code of conduct when it came before council and you voted on it, but you don't want to acknowledge that to this Commission.---That's your opinion. That is your opinion, which is totally wrong.

MR DREWETT: I object to that, I object - - -

THE WITNESS: 2005? Are you for real?

MR DREWETT: Mr Hawatt, please. I object to that, Commissioner.

20 THE WITNESS: That is ridiculous what you're saying. That's absolutely ridiculous.

MR DREWETT: Commissioner, could we - - -

THE COMMISSIONER: Mr Hawatt, quiet.

THE WITNESS: Come on, Commissioner. This is beyond a joke.

THE COMMISSIONER: Mr Hawatt, quiet. Mr Drewett.

30 MR DREWETT: I don't know if at this late stage it would be appropriate to be quoting Shakespeare to my client.

THE COMMISSIONER: We've had Casablanca and other things, why not?

40 MR DREWETT: We've had all manner of things. But in my respectful submission, it's the form of the question that perhaps may contain some misunderstood meanings behind it. "Methinks you protesteth too much" might be challenging for most HSC students studying Shakespeare at the moment to put a proper meaning and explanation on that, I would have thought, as opposed to my client, who's been in the witness box for some 12 days. The court could take some judicial notice of the fact that he may not be scholared in the words of Shakespeare.

THE COMMISSIONER: Mr Drewett, that was the, I think the segue into the substance of the question, which was put, and your client put his position quite clearly. So I'm not going to revisit it. Mr Buchanan.

MR BUCHANAN: I tender the – as one exhibit if it's convenient, matter for the Commission – the draft model code of conduct dated, under a circular from the Department of Local Government, dated 12 August, 2004, and the Canterbury City Council Code of Conduct dated 20 January, 2005, under a policy register sheet for that document.

10 THE COMMISSIONER: All right. The draft model code of conduct for councils, produced under a circular to councils dated 12 August, 2004, and then the policy register from the Canterbury City Council containing the code of conduct authorised on 20 January, 2005, will be Exhibit 297.

MR DREWETT: Commissioner, I wonder if it might make sense to have them as two separate exhibits. It might be easier to make reference to those by way of submissions if they're in two separate exhibits rather than the one. It's a matter for the Commission, of course, but - - -

20 THE COMMISSIONER: All right. I withdraw that. The draft model code of conduct produced pursuant to a circular to councils dated 12 August, 2004 will be Exhibit 297.

#EXH-297 – DEPARTMENT OF LOCAL GOVERNMENT DRAFT MODEL CODE OF CONDUCT AND GUIDELINES DATED AUGUST 2014

30 THE COMMISSIONER: And then the Canterbury City Council policy register containing the code of conduct authorised on 20 January, 2005, will be Exhibit 298.

#EXH-298 – CANTERBURY CITY COUNCIL POLICY REGISTER CONTAINING THE CODE OF CONDUCT DATED 20 JANUARY 2005

40 MR BUCHANAN: So the phenomenon of Labour councillors caucusing ceased around 2013. I think that's right to say?---Yeah.
At Canterbury.---Yeah, around that period, oh, probably, maybe after.

You then took steps to familiarise yourself with the code of conduct so far as it governed the conduct of councillors?---(No Audible Reply)

Is that right?---The, the only time is when it, whenever a report came to council in that regard, in regards to the code of conduct, yeah, we looked in to it.

And so when the matter came before council on 25 July, 2013, and the business papers included a copy of the Canterbury Council Code of Conduct, and we'll show you the front page of that part of the business papers, you can see that this copy was part of the business papers for the agenda item, Code of Conduct Review, for the meeting of council dated the, oh, sorry, on 25 July, 2013, you made yourself familiar with its contents, is that right?---I don't, I don't recall. I don't recall.

10 But you would have, wouldn't you, because it now was something that meant something to you because you had control of the numbers at council. ---I never had control of the numbers at council.

Well, the Labor Party didn't control the numbers in council.---No, but independent-minded councillors controlled it.

20 So did you acquaint yourself with the code of conduct once the phenomenon of Labor Party caucusing ceased in 2013?---No, no, I just, just general, general understanding of it, that's all, not, not the deep, just general, general stuff.

Why wouldn't you want to know what the actual requirements of the code of conduct were?---Because that, that's a report, we're talking about 2013. It comes in once to council as a council report, whether there's a workshop or no workshop, we're talking about a period of maybe coming through to the night and it's adopted at a council meeting, sometimes it doesn't get debated and it's moved and that's the end of it, so there's no deep discussions in this regard in 2013. So I don't know, I don't understand your line of questioning, I can't work it out.

30 From 2013 onwards your vote made a difference, didn't it?---My vote, my understanding would have been a bit more, a bit more different, my understanding of council would have been a big difference, yeah, I would have had much more greater knowledge of the working of council and, and I get more people calling me and I become more experienced, yeah, that's normally what happens when you, as you go along and, and years of council, yeah.

40 And you would have been very interested in what the document that was put before council at its meeting of 22 August, 2013, after the councillor workshop on the draft changes to the code of conduct, said, wouldn't you? ---I don't ever recall the 2013, what's in there. At the time could have, yeah, looked at it, but after that it's, it's sort of gone out of the mind, it's, I don't think about it.

Well, we know that you were interested in it because you moved that the July 2013 meeting not consider it until after a workshop had been held, so you had put your mind to it, hadn't you?---Look, because I move it doesn't mean I own that motion, it's a workshop, the staff could have said, look,

let's have a workshop, somebody during the debate could have said, look, let's have a workshop and I moved it on behalf of that. It's just, it's through some debates we have where we move the workshop. I mean, it doesn't mean I own it, it's, you have to go through the records of council and see what was discussed during that period to get to the truth, not sort of just grab one word out of it and, and make out a story from it.

10 And we can see that you had before you the code of conduct with the changes made arising from the councillor workshop at its meeting on 22 August – I withdraw that question. We can see that you had the code of conduct at the time, that applied at the time, in the business papers at its meeting of council on 22 August, 2013. You had that before you, didn't you?---I, I don't recall it, I don't recall that business paper.

You don't accept that the code of conduct was in the business papers?
---Yeah, it was, I don't recall what information's in there, it's just like a report, like any other report you get.

20 We'll show you, we'll show you, we'll show you. Could we have a look, please, at the front page of the code of conduct so far as applied to the 22 August meeting. Can you see on the screen in front of you, this is from the business papers of the meeting of council on 22 August, 2013. This is the code of conduct as it was at the time, before the meeting concluded on 22 August, 2013. Do you see that?---(No Audible Reply)

The draft, I do apologise, yes, the draft?---Which draft?

30 There was only one draft, the draft that was put up to council on 25 July, 2013.---And that was adopted?

It was adopted at the meeting of 22 August, 2013, subject to the change that Mr Sammut reported as a result of the councillor workshop.---Yeah, so there was a council workshop which is somebody might have asked for it, and we had a workshop. What's wrong with that?

40 I'm talking to, Mr Hawatt, about your participation in consideration of the code of conduct at the meeting of council on 22 August, 2013, after the workshop. You had this before you, didn't you?---I don't recall this. Go back to, to the recorded meeting, you'll get the truth. I, I, you're asking me to go back and give you an opinion that I had at a time, I wouldn't have a clue, this is 2013. Go back to the recorded message and see what the debates were and what we said and who said it and what happened.

Commissioner, I tender the - - -

THE WITNESS: I don't work, I can't work it out.

MR BUCHANAN: - - - code of conduct, the pages of the – I’m sorry, I withdraw that application. I apply to include in Exhibit 281, those parts of the business papers of the meetings of council on 25 July, 2013 and 22 August, 2013, which comprise the Canterbury City Council Draft Code of Conduct. Does that make sense? I apologise for bowdlerising that.

THE COMMISSIONER: So we’re including in Exhibit 281 the - - -

10 MR BUCHANAN: Which already has extracts from the business papers of those two meetings, 25 July and 22 August, 2013, but in this case we’re adding to those extracts from the business papers, if it please the Commission, that part which comprised the Canterbury City Council Draft Code of Conduct in each case.

THE COMMISSIONER: All right. Exhibit 281 will also include, in the business papers for the council meetings held on 25 July and 22 August, 2013, the draft code of conduct.

20 MR BUCHANAN: Mr Hawatt, were you ever obliged, under a requirement, to familiarise yourself with the Canterbury City Council Code of Conduct and comply with its provisions?---I don’t recall.

You don't think that you had such an obligation?---We, in council, we get lots and lots and lots of various reports that comes for, for one night or one day or a week before and then disappears. Unless you got it like a, like a holy book in front of you, day and 24 hours a day, then you can continue reading it and refer to it. No, we don’t go back and keep having it in front of us in our face to keep looking at it. It, it comes and goes like everything else and it just comes in and, and as I said, common sense always prevails.

30 You didn’t understand the Canterbury City Council Code of Conduct to inure? The meaning of which is “continue on”.---Basic understanding. Basic.

It’s not in and out, not just an agenda item, it’s something that always spoke to councillors and staff once it had been adopted?---Basic common sense I understand, just basic common sense.

40 Would you answer my question, please?---That’s my, that’s my answer. That’s what I understand is, goes, goes back, it goes - - -

No, I’m asking you not about basic common sense. I’m asking you about the Code of Conduct of Canterbury City Council. Did you not understand that it always spoke to and imposed requirements upon councillors and staff at Canterbury?---Look, the only time, whenever this comes up, if, if the GM says hold it, you can’t say this or you can’t do this, this is against the code of conduct, and, and then that’s the only time that it comes back, if, if there was a, maybe an insult amongst debating to another councillor or whatever.

So these are the things that can come up during the meeting in regards to the code of conduct, from my understanding, but to the detailed specifics, I don't recall and most councillors would not recall it. Unless there's a, as I said, there was a, an insult or something amongst the councillor debates and they it's, it's, called upon during the, the debate by the, by the staff or the GM. That's the only thing I, I recall from that.

10 Could we have a look, please, at a new document, Code of Practice for Liberals in Local Government. Mr Hawatt, if you just cast your eye over the pages of this document you can see that it had a commencement date of 1 July, 2013. Do you see that, page 1, clause 1.4?---Sorry, page 1.

Clause 1.4?---Yeah, yeah, 2013, yeah.

And do you see that on the fifth page there is a section headed at the top of the page, Responsibilities of a Councillor?---Yep.

20 Do you see under the heading, clause 3.1, Compliance with State Laws Relevant to Local Government, that it read, "Liberal councillors and candidates must familiarise themselves and comply with the provisions of all state laws relevant to local government, including in particular the Local Government Act, the Election Funding Expenditure and Disclosures Act, the Model Code of Conduct for Local Councils in New South Wales 2013, and all delegated legislation made under those Acts." Do you see that? ---Yeah.

30 And do you see clause 3.2 headed, Compliance with Council Codes and Policies Regulating Behaviour. It read, "Liberal councillors must familiarise themselves and comply with the provisions of their council code of conduct, code of meeting practice and other relevant codes and policies regulating the behaviour of elected members."---Yeah.

This applied to you from 1 July, 2013, didn't it?---This was a circular from the committee that was set up to, to prepare it, yeah.

It applied to you from 1 July, 2013, didn't it?---Well, this was a, I don't recall this one but there was some, some circular that went round.

40 Sir, this document applied to you from 1 July, 2013, didn't it?---If it applied to me, it applied to me. So what's, what is the issue?

You were a Liberal Party councillor?---Yeah.

In New South Wales?---Yes.

And it came to your attention, didn't it, this document?---It, I don't recall it but it might have, yeah.

When you say it might have, you don't remember - - -?---There was something, a circular.

- - - reviewing it?---There was a circular, I remember there was something, but I don't recall the details in there.

10 You were obliged to comply with the Code of Practice for Liberals in Local Government from the date it started, weren't you?---I, I don't, I mean I have to, this is regarding state laws? I mean it's like, it sounds like here you need a lawyer to, to understand the state law. We're part-time councillors, so most councillors, you can ask any Liberal councillor and ask him about this document and ask them if they remember it, if they, if they understand the, the laws of, the deep laws of, of the local, local government, especially when they're part-time.

Did you need to have an understanding of the document to know that you were required as a Liberal councillor to familiarise yourself with the model code of conduct for local councils in New South Wales?---Yeah.

20 You knew you had that obligation as a Liberal councillor, didn't you?--- Yeah. So? I just, I - - -

Did you comply with that obligation?---I just explained to you, I just explained - - -

No, no, please.---Wait a second.

30 Yes or no, did you comply with the obligation as a Liberal councillor to familiarise yourself with the model code of conduct?---I don't, I don't recall those. As I said, it's a - - -

You're not prepared to answer my question?---I don't recall this. What do you want me to, to say, yes, I recall it? I don't recall this, but, but - - -

40 I'm not asking you whether you recall it, I'm asking you whether, referring to clause 3.1 of the document, you familiarised yourself with the model code of conduct for local councils in New South Wales.---Look, I, I don't, I don't recall this. I don't recall this and what I said before that in regards to our code of conduct, the local, the council one, as I said, it's a, it, it comes and goes and if there's any issues during a, a debate, and, and you, and you, you break the code of conduct, and most of the times was based on insulting one another or criticising one another, that was, always been the, the majority of the times that most councillors understood. But the deep in, in, information in there, and we had a, we had a - it, it was up to the individual councillor to make their own decision based on declaring interest or not. That's always been the case.

That's not what the Code of Practice for Liberals in Local Government said, was it?---Oh, they said, it says, state laws, oh, yeah, that's fantastic. State laws.

Please.---Give me one councillor understand the state laws.

Please, Mr Hawatt. Please.---(not transcribable)

10 Can I take you to clause 3.2, "Liberal councillors must familiarise themselves and comply with the provisions of their council code of conduct."---Yeah, so? Comes through, comes and goes.

You knew you were obliged to familiarise yourself and comply with the provisions of the Canterbury Council Code of Conduct - - -?---Yeah, based, based on your own code.

20 - - - no later than 1 July, 2013, didn't you?---Yeah, based on your own code, and your own, your own decision, and your own making, and your own way of looking at, and not insulting other councillors, and, and debate. Yeah, that's the same thing what I just said. I mean, how do you interpret it? You interpret it one way, I'll interpret it another way. It's your interpretation.

You know that that's not what this code said.---It is. It is the code that applies to the, what the council code is, saying you, you got to familiarise yourself with it, which generally, yes, we read it once, it's gone through them our minds, and it's only comes up during debates in council whenever some, some, some issue comes up or, or if someone, as I said, insulting one another, and then it comes back.

30 You knew, didn't you - - -?---But to go into details, no.

You – I withdraw that. You complied with your obligations as a Liberal councillor imposed by this code of conduct, didn't you?---I believe I did.

40 And therefore, you did familiarise yourself with the provisions of the Canterbury Council Code of Conduct, didn't you?---I've just explained it. I'm not going to explain it. You can pressure my brains as much as you like. It's not going to work. And I'm telling you, I just explained to you what, what I just said, and I'll repeat what I said - - -

THE COMMISSIONER: No, don't.--- - - - exactly the same.

MR BUCHANAN: Indeed, Mr Hawatt, this document I can inform you was found during the execution of a search warrant on your computer - - -? ---That's all right.

- - - at your residence.---That's all right. It doesn't matter.

You knew very well that this document existed - - -?---They would have sent - - -

- - - that is to say, the Code of Practice for Liberals in Local Government, and that you were obliged to comply with it, didn't you?---No, they would have sent it all, to all councillors. Every councillor would have received one. It doesn't mean we got to read it in detail. Might just read it quickly, go through it, and, and that was the end of it.

10 And was that the approach that, as you understood it, all Liberal candidates for election to councils in New South Wales took, or were you different from them in that respect?---No, no, I think they, most of them would have taken the same, you, because you ask any one of them about this, they probably wouldn't have a clue.

And how do you know that?---Because I know, I know other councillors I deal with. They don't, their life is not, they – look, we're a part-time councillor. Our life does not consist on, on just spending time on documents, everything else. We just, people call us, we help them, and, and
20 we relay the messages on, and continue for that, that's, that's our real job.

You have discussed - - -?---Not to sit down and understand the details of, of laws and everything else, which is very difficult, especially on a part-time basis.

You have discussed, have you, with Liberal Party councillors on other councils, the question of compliance with the Code of Practice for Liberals in Local Government?---We might have had a, a, a, a discussion amongst ourselves when, when the thing was circulated.
30

And when did that occur, when it was circulated?---When it's circulated, not, not the 13, when - - -

And who took part in those discussions?---Oh, there was no formal discussions, it was just general.

I'm not saying they were formal. Who took part in the discussions you've talked about?---I don't recall who we spoke to. Maybe we meet at local government conferences and maybe have a, a, a talk about it. Maybe
40 through meeting with somebody from, from the executive of the, of the party at the time. I, I don't recall it.

Are you saying that the Liberal Party councillors to whom you spoke at those gatherings expressed to you the view that they weren't prepared to comply with the Code of Practice for Liberals in Local Government?---They never said, they never said they weren't prepared to comply, it's - - -

Or that they couldn't comply?---Yeah, would have debated at that time, and then a week later, everybody forgot about it.

And was that your approach, that - - -?---That's, that's, that's a general - - -
- - - you would forget about the obligations that were imposed on you as a Liberal councillor - - -?---It's not that you would, you always - - -

10 - - - by the Code of Practice for Liberals in Local Government?---You, you always use common sense approach when you're dealing with people, and that's what I've always used common sense approach.

What I suggest to you, sir, is that you did in fact comply with this Code of Practice for Liberals in Local Government by familiarising yourself with the Canterbury Council Code of Conduct to the extent that you weren't already familiar with it?---This is your, this is your, your own interpretation of it.

20 And was what you were meant to do, wasn't it?---I've already spoke, I already told you, I've, we, we looked at it, if, I don't recall but if we looked all right it, it could be read it, debated it and forgot about it.

You didn't care, did you, whether you complied with the Canterbury Council Code of Conduct? You knew it existed, you knew it imposed requirements on your conduct as a councillor but you went ahead with being a councillor, not caring whether you complied with the requirements of the code of conduct or not?---I don't understand - - -

30 Is that fair to say?---No, that's not fair to say. Where do you bring this caring? Where, where's the caring?

Well, the question is, did you care - - -?---Because I, I care about, I care about my role as a councillor, yes.

Yes. Did you care as to whether or not you complied with the requirements of the Canterbury City Council Code of Conduct that applied to you?---I never thought of it. I've never thought of it.

40 But you knew that the requirements existed, that's right, isn't it?---As I said, it comes and gone and I, I and, and common sense approach - - -

No, please. If you just focus on my question. You knew that the requirements imposed on councillors by the Canterbury City Council Code of Conduct existed but you chose not to pay attention to them. Is that fair to say?---It's not to pay attention. We just left it to flow along, we just flowed along. As time progressed, during debates, it was always being, most of the code of conduct that we've always looked at was based on the, the way we debated and the way we respected each other in council during those

debates. That's probably at a 90 per cent out of the time of, that, when the code of conduct comes up.

You knew that you could have sat down and read the code of conduct, particularly the provisions that applied to you, but you decided you wouldn't do that, you'd do something else instead, is that right?---I never decided to do anything. I don't even recall that. I said it's not, it's not a thing that you look at once or, or when the time comes during the, the council, when we debate it and you forget about it. That's all it is.

10

Can I tender the Code of Practice for Liberals in Local Government.

THE COMMISSIONER: The Code of Practice for Liberals in Local Government, with a commencement date of 1 July, 2013, will be Exhibit 299.

#EXH-299 – CODE OF PRACTICE FOR LIBERALS IN LOCAL GOVERNMENT WITH A COMMENCEMENT DATE OF 1 JULY 2013

20

MR BUCHANAN: Can I take you, please, to volume 4 of Exhibit 52, page 148. If we go to, you can see the front page there, it's the first page of the code of conduct complaint to the then Minister for Local Government concerning the actions of the general manager and mayor of Canterbury City Council. Can you see that?---Yep.

30

Can I take you please to page 153 in volume 4. You can see that you signed it on 7 January, 2015.---Yep.

And you, in fact, were instrumental in this document coming into existence, weren't you?---In, this one, yes.

Yes. And you drafted it, didn't you?---With the help of people, yeah.

40

So you knew that there was a code of conduct that imposed requirements upon staff and councillors at Canterbury City Council at the time you signed this document, indeed at the time you drafted it, didn't you?---Well, at the time there was a an issue, there was an issue in regard to the actions of the, of, of the mayor and, and what happened and there was a code, a code of conduct that we, we had to pull, pull out the, whatever report that we had or whatever document we had in order to, to pass it on. There was some issue with it, yeah.

You, indeed, crystallised your concerns about the conduct of the general manager and the mayor in a lengthy complaint that you alleged in the document was a breach of the requirements of the code of conduct, so far as

they applied to the general manager and the mayor, didn't you?---It's to do with the financial position of council, it's just a, this is just a general complaint that we made in regards to the financial affairs of council, yeah.

Wasn't it a complaint also about the integrity of decision-making at council?---Well, that's a complaint about the decision that was made, the decision that was made, which was, which kept, we got council into financial liability.

- 10 And you thought that the conduct of Mr Montague in making a decision to appoint Mr Stavis but then not honour that offer of employment was something which caused a, which if it wasn't itself, caused a breach of the requirements of the code of conduct as they applied to Mr Montague.
---That was at, at the time and that was a common sense approach as well.

Well, that's not what you called it. You don't call it a complaint of breach of common sense, all the way through you've talked about it as a breach of the code of conduct.---Yeah, correct.

- 20 Why did you do that instead of calling it a breach of common sense?
---Because that's what we, I had to refer to the ah, to the council code of conduct all the time.

Why, why did you have to refer to the code of conduct - - -?---Because there was a big, because - - -

- - - instead of referring to a breach of common sense?---Because there was a big issue and it was reported back to the, this is a formal, a formal complaint, not a common sense complaint, it was a formal complaint and
30 we had to refer to some document.

- So this demonstrates, if the evidence I've taken you to before did not, that you well understood, didn't you, in the period 2014/16 that there was a code of conduct for Canterbury City councillors and staff and it imposed requirements on them and governed their conduct as councillors and staff, didn't you?---No, I still, I still stand by what I'm saying. This is based on, if, if there was an issue in regard to the financial position you pick up the code of conduct and you look at that clause in regard to the decision that was made at the time and, and respond to that, and that's, that's the end of
40 it. After that it's, you forget about it, as I said, you sent it, you make the complaint, it's like a report coming in, and it's gone. So same thing. I don't understand what, you're trying to make me into a person who's an expert who understood from 2004 and '05 and '13, and I don't remember most of this. If there was an issue, you work on it on that particular day, on that particular moment, you, you, you grab whatever information you find and you make a complaint on it.

What this and the other evidence I've taken you to this morning shows, Mr Hawatt, is that your evidence to the Commission that you were unaware that you were required to avoid a conflict of interest where you had a non-pecuniary interest such as a friendship, is not true. You did know that, didn't you?---It, it was, again, it was left up to the individual councillor to make the decision whether they believed there's a pecuniary or non-pecuniary interest to make, if they had to, it was up to us. It was a common sense approach that we took and it was up to the individual councillor to make a decision. And I'll repeat, I'll repeat it over and over and that I will
10 stick with this, and that's exactly what I'm saying is a correct decision.

Excuse me. Can I ask you some questions, please, about your relationship with Mr Stavis. You told us on 15 April, transcript page 6690, that Mr Stavis might have been once at your residence.---Yeah, if I remember.

On that occasion was there anyone else there apart from yourself?---I don't recall. I don't recall it.

What was it that you're thinking of when you say, though, when you told us
20 that he might have been at your residence once?---Because I was, there was a time when I was doing a lot of work around the house and I couldn't go out and meet people and follow it up and, and then if somebody has an issue just come over. That's the way I was.

When Mr Stavis came to your residence was George Vasil there as well?---I don't recall it. No, I don't recall.

Was the purpose of Mr Stavis coming over to your place to discuss with you and George Vasil an application or applications?---I don't recall.
30

Is that possible?---I don't recall.

No, I'm asking you a different question now.---It could - - -

Is it possible that when he came over to your place it was to discuss with you and George Vasil - - -?---Anything is - - -

- - - an application or applications?---Anything is possible.

40 It's not the sort of thing that is out of the realms of possibility therefore? That is to say, it's - - -?---No.

- - - it's not the sort of thing where you'd say to yourself, oh my goodness me, that would never happen?---No. It could be, it could be maybe the, the, some of the issues with the controls that we've had. The DCP controls, or maybe talking about other, other issues in regards to, to Canterbury Council or, I don't, I don't recall. I don't know.

How many other directors did you have over to your place to discuss matters with George Vasil and you?---There's no, no directors came to my house.

10 Why was it that Spiro Stavis was invited but not other directors?---Because, because the planning is much, much bigger in regard, in scale in regards to the complaints and, and issues that we face compared to, to somebody having problems with their road or their garbage bin. So it's, it's naturally that Mr Stavis is, is probably the busiest person that we deal with in regards to planning issues.

So in the period when Mr Occhiuzzi was director of planning did you have him over to your place?---Mr, no, I haven't, no.

20 You had a different relationship with Mr Stavis to the relationship you had with any other director before or at that time, didn't you?---No. I've had lots of meetings with, with Mr Occhiuzzi, Marcelo and, and the director before him. I've always had the same communications and, and response and meetings on many occasions.

20 You had a social relationship with Stavis, didn't you?---No, not a social relationship.

30 One in which you treated each other as a friend?---Like this word as a friend doesn't mean like it's, I won't say he's my friend because you said hello to him. You had coffee with him he's my friend. I mean, I've never, I've never visited his house. I've never, he came to my house because there might have been some issues and, and I needed to meet up with him and I couldn't make it. It could be anything. But, no, I don't socialise with Mr Stavis.

The relationship you had with him was one whereby you were influencing or at least trying to influence the way he did his work as director of planning and the decisions he made.---That's incorrect, incorrect.

40 Why is that incorrect?---I've never, I never influenced anyone. I just give my opinion. I give my opinion. It's up to Mr Stavis. He's got his own. He's an intelligent human being, intelligent person. He can make his own decision with his staff.

He was a person - - -?---I can give my own opinion.

He was a person who owed you his job - - -?---He did not owe me any job.

- - - and he knew that, wasn't it?---No, he did not. He didn't owe me his job. Even if we supported him at the time when he was being sacked it's nothing to do because of, because we owed him. It could have been as I said before Donald Duck. It's not the point. I would have done the same

thing. So he can think whatever he likes. If he feels an obligation to, to respond to me quicker than anyone else well, that's his opinion, but as far as I'm concerned I've never pressured him to do anything, anything wrong that's outside his, that he never wanted to do.

And Mr Stavis had a personality which needed support, which looked for approval, which enjoyed being part of the team, you and Mr Azzi. That was your experience of Mr Stavis's personality, wasn't it?---Part of the team. What team?

10

The team Stavis, Azzi, Hawatt.---Oh, that's your opinion. What, there's no team. It was just communications and, and respect for one another and support, supporting one another in regards to getting things done for helping people.

20

There was a stronger relationship between you three than there was between you and any other person there at council, wasn't there?---Mr Stavis used to respond to other councillors. He's not, he didn't sort of disrespect any other councillors or didn't treat them differently. He just, he responded to anyone, any councillor who had issues, who had wanted to get information. He responded to everybody from my understanding.

30

You had a similar relationship, if I can suggest it, with Mr Montague. That is to say you influenced him and tried to influence him and knew that that was what you were doing, particularly after he was obliged to you for remaining as general manager in early 2015.---I think, I think you're underestimating the intelligence of Mr Montague. He's not that stupid. He's a very intelligent person and he, he knew there was an issue and we resolved it, and there's no obligation to do anything else, and he was a, an independent-minded general manager and I have respect for him on that.

I'm not talking about his intelligence, and this is with the greatest of respect to Mr Montague. It's all about strength of character, isn't it?---He had, he had his own mind and Mr Montague, you could never try to twist his arm to do anything he doesn't want to do.

40

And Mr Montague, you knew, had been through the wars by early 2015, hadn't he?---It's only a small, it's only a small period. It was resolved and that was the end of it.

He was a bit beaten and battered and - - -?---Everybody was beaten.

- - - susceptible to influence by strong-willed people such as yourself and Mr Azzi.---Mr Montague is an intelligent person who would never be weak and, and he'll know himself, he would never do anything if he felt like it was going to be used or abused, and we'll never abuse him or use him for any other reason or any, any, any idea. We always respect one another and that's the way it is.

Just take an example. Mr Montague, to your knowledge, didn't want to take on Charlie Demian about what Stavlis was asking him to do in relation to the approved development at 570 Canterbury Road, unless Mr Montague knew he had your back and Pierre Azzi's back, didn't he?---No. No. He's always said from opinion if he wasn't, he said if, I recall one time he said, no, he would never support Charlie Demian for any, any, if he going to offend his staff or, no, no, that's not correct.

10 And if he had your support and Pierre Azzi's support, then he didn't need the support of any other councillor, did he?---No.

The support of you two was enough.---No, it wasn't enough. We had a - - -

In respect of a planning and development matter, anyway.---We had a good working relationship. We more, especially myself, I had much more planning issues and, and inquiries than anyone else, and there was sometimes issues that Mr Stavlis cannot resolve, and you talk to the GM about it. It's just normal things that's been going for years.

20

You met Spiro Stavlis at Pierre Azzi's house after Pierre had – well, I'm sorry, both before and after he had started work as director of planning, didn't you?---I, look, he came this once but I don't recall, could have been for some, some issue. As I said, could be code of - - -

Code of what?---Could be controls - - -

Sorry, code of what?--- - - - DCP controls.

30 THE COMMISSIONER: I think he was about to say code of conduct. ---Back, back to the code of conduct. Definitely there's no code of conduct, this one. It's to do with the, could be DCP issues, control issues. I don't know. Just, I don't recall what the meeting was, what we discussed, but there was nothing sinister in that regard, no.

MR BUCHANAN: Well, Mr Stavlis has told the Commission that he was invited to Pierre Azzi's house numerous times either by Pierre Azzi or by you. Is that right or wrong?---Look, I, I might have, if there was an issue for me to meet up with Stavlis and I was going, after hours if I'm going to
40 Pierre Azzi at the time, and because he's not far, they both live in the same suburb, Roselands, and, you know, and I'll be there. Maybe we can meet there. It's not unusual.

And have a drink together?---What?

And have a drink together?---Look, I didn't have any drink. Maybe I had something to, something to eat, yeah.

And what was discussed was Mr Stavis's work, wasn't it?---No. We, look, it's just discussion in regards to maybe some issues, could have been an issue with Demian, could have been an issue regarding the DCP, could be an issue regarding some complaints that we're getting and there's nothing been acted on, I don't know, it could be anything.

10 And was there an occasion when Mr Stavis was at Pierre Azzi's house and Mr Demian was there engaging him in discussion about one of Mr Demian's projects when you were present?---No, I don't, I don't recall that, no.

Did you ever suggest to Mr Stavis in relation to Mr Demian that you should concede that, sorry, that Mr Stavis should concede, should go along with what Mr Demian wanted?---No, no.

Excuse me a moment. Excuse me. Could we play, please, Exhibit 87.

20 **AUDIO RECORDING PLAYED** **[11.11am]**

MR BUCHANAN: Mr Hawatt, you heard that recording being played?
---Yep.

And you recognised the voices of yourself and George Vasil?---Yep.

30 This was a conversation in which you were in large measure reporting to George Vasil about a conversation or conversations that you had had with Mr Stavis, is that correct?---Mmm. Sounds like it, yep.

And I just want to take you to some passages in it, because I want to suggest to you that they are illustrative of the relationship that you had with Stavis, and the reasons for that relationship. You told – oh, first of all, Vasil was asking you how you had gone with this interaction with Stavis. Is that right? That's that first page.---(not transcribable) Yeah, he must have had some issues they, they raised with me, yeah.

40 And so were you raising all of these issues with Stavis because they had been raised with you by Vasil?---No, no, there's issues that I'm also – it sounded like the DCP, when I, because when I spoke about the wall, the 20-metre wall, that's something that I would have come up with because of other, other complaints I received from architects in regarding to having a, a break in between. And, and then what happened is there was, council saying, look, you need to have 20, then break it, then back, and that created a, a noise area for the neighbour next door.

So Vasil wanted to know how you had gone with your negotiations with Stavis over the redrafting - - -?---And just - - -

- - - of the DCP, is that fair to say?---Well, looking, look, looking some of the issues that we had with the DCP, yeah.

Now after halfway down the first page, you told Mr Vasil that Spiro was happy to have it separate, and so that indicated agreement by Stavis with what you had asked him to do in that respect, correct?---Oh, no, I just raised – look, I, to me, it’s like, when architects and planners and talk to me about issues with our DCP, and, and Mr Stavis, he, he can see the, easily, he can see the issues, as a, as a planner himself, an experienced planner himself, understands it quickly.

Page 3 of the transcript, in about the middle of the page, you said, “No, no. He’s happy, he’s happy with the changes. I spoke to him about the objectives and the setbacks.” So again, you had proposed changes being made and you had, by discussion with Mr Stavis, obtained his concurrence, his agreement. Is that fair to say?---Well, he, he seemed to be okay with the, the changes that we recommended to change, to make, yeah, which went to our objectives as well.

And then if I can take you to page 5 of the transcript and the second half of the page, Mr Vasil asked you, “How’d you go with the one at Punchbowl?” And you responded, “Ah, look, he’s, I’m, I’m satisfied with whatever, what he’s done. He said, he said he understood the problem.” So again, you had achieved a position from Mr Stavis in respect of the one at Punchbowl with which you agreed, you were proving what he had decided to do in that respect, is that fair to say?---Look, I, I don’t recall the, the, exactly what that, that meant. I, I’m not clear on what the outcome you’re talking about here. I, I don’t, I can’t comment on that.

Page 7 of the transcript on the first half of the page, the fourth entry, you said, “I said, look, it sounded like you done, I said to him, look, it sounds like you done the right thing, but what I heard, it really pissed me off before, you know?” So you were indicating that you had given to Mr Stavis, in your conversation with him, your approval of what he had done, would that be right?---I, I don’t, all I read from this is, reading from this would be a discussion that we had and, again, a, a common sense approach in regards to objectives and, and controls and setbacks and that’s normal. We always discuss this with, with Stavis or, or, or with previous directors.

And there’s an indication of the way in which you and Mr Azzi operated together in respect of Mr Stavis, a bit over halfway down, where you said, “Anyway, so I’m, I’m happy with it and Pierre told him that if I’m happy with it then he’s okay with it, you know?” That is illustrative, isn’t it, of the nature of the relationship that the pair of you, you and Mr Azzi had with Mr Stavis?---Mr, if you approach Mr Stavis with something that makes sense and an issue that someone complained to you about, whether it could be an architect, in this case, an architect complained about a number of things

with, regarding the controls and the DCP, he understands it. It's easy, yes, it's easy for somebody to say yes but it's not a, there's no gun being pointed to his head and to, and do the wrong thing. This is a, a healthy discussion in regards to issues that we confront as a council.

But the point of it is that what Mr Stavis was doing was drafting a report to council about changes that he was recommending be made to the DCP, wasn't he?---There might, there might have been a, a, draft DCP and everybody puts their input.

10

And what it shows is the influence you had, and Mr Azzi had, on the content of the recommendations that Mr Stavis made to council, doesn't it?---No. No. We had issues before Mr Stavis came in to - - -

Oh, yes, we'll come to that.---We had issues before in regards to, regarding to the control, the DCP controls and then built up. Honest.

20

What I'm talking about is, thinking about the decision making processes at council, you've frequently referred to the fact that if there was a recommendation made in the officers' report, then you would follow that. Although that, of course, didn't always happen, but what we're seeing here is a little window into the fact that what you and Mr Azzi were doing was influencing the content of the recommendation that was made to council, and so if other councillors took the same view as you did, that they would follow the recommendation of the officers' report. What it meant was that you and Azzi were influencing the decision of council without even being on the floor of the chamber.---No. This is nothing to do with, we're just passing on information based on the complaints that we received and the issues that had being confronted for years in regards to DCP and we passed that on. There's nothing to stop any other councillor having issues, the same issues or with different issues, to raise it with, with Mr Stavis before the, before there report comes to council or debated on the, on the night. It's, this is a very open, normal council ways of dealing with, with matters such as the DCP. I, I don't see any issues with that.

30

Page 8 of the transcript, four entries from the bottom of the page, Vasil said, "It's good he's paying attention to you."---Yeah.

40

What he meant by that is, politically it is good that at this stage in preparing his report to council on the DCP, Stavis is paying attention to you, Michael Hawatt, and doing what you wanted - - -?---No.

- - - Stavis to do.---That's incorrect. Paying attention in regards to the issues that I raise with him and he understands it, he understands it, which is, that's what I like about Mr Stavis, he understands the issues.

And then there's a, on page 9, the fourth entry from the top you said to Mr Vasil, "I told him about Marcelo," and then you talked about deep soil planting. Do you see that?---Correct, that's the problem we had, yeah.

Then over the page, page 10.---Yeah.

10 You said at the top of the page, "At least he's very flexible on, he understands, you know, it's difficult," sorry, "it's not difficult to convince him, you know, something makes sense, common sense, he sees it, you know, it's not that, oh, no, no, no, no, you know."---Correct.

And you emphasised, "Bloody Mr No-No." Now, "bloody Mr No-No" was Mr Occhiuzzi, correct?---Correct.

20 And you were saying that it's not difficult to convince Stavis of what you're taking to him as being the content of the DCP that you want to see recommended to council.---But he knew there was a problem with it, so if, if, look, if somebody knows there's a problem and I say, yeah, there's a problem, yes, there is a problem, he understands it. So what's wrong with that? We're not convincing him to do the wrong thing, we're just giving him issues that we, we get over the years.

I'm about to move on to a related but different topic, Commissioner. Would this be an appropriate time?

THE COMMISSIONER: Yes.

MR BUCHANAN: We did start a little late, but I'm in your hands.

30 THE COMMISSIONER: No, look, we'll have the morning tea adjournment and we'll resume at about 10 to 12.00.

SHORT ADJOURNMENT

[11.27am]

40 MR BUCHANAN: Mr Hawatt, thinking of 12 May, 2016 when amalgamation occurred, it occurred by way of a proclamation that was published at 12.10pm that day. Do you recall that?---I remember the (not transcribable) yeah.

And you knew then you were no longer a councillor, that afternoon?
---Correct.

And a question in your mind of course was whether you would continue, given that you were no longer a councillor, to have influence with Spiro Stavis.---Not really.

You didn't think that there might be a response, sorry, you didn't think that there was the possibility that Spiro Stavis might say, sorry, Michael, you're no longer a councillor, I've got to report to Matt Stewart, the interim general manager?---No, we could still make inquiries on behalf of people if they, if they wished. I still do that. There's no rules that say no ex-councillors or ex-anybody can't make contacts in regards to inquiries they're still receiving.

10 Except that you had a unique relationship, you and Mr Azzi had a unique relationship with Mr Stavis, didn't you?---No, we just respected one another, it wasn't unique.

And it started and lasted for a bit over a year while you were a councillor and while Pierre Azzi was a councillor. Correct?---We had a good working relationship, yeah.

And then that changed because you were no longer a councillor by the afternoon of 12 May, 2016.---Yeah.

20 No?---Yeah. Yeah, I'm just saying yeah, okay, so - - -

Well, can I take you, please, to Exhibit 52, volume 5, page 306, and if we could have a look, please, at item 671. Do you see that?---671?

And it's on 12 May, 2016 and it's a text by you to Mr Stavis at 3.41pm. Do you see that?---Yeah.

30 You made, sorry, you sent a text about a particular address in Earlwood and said, "He," being the owner, "has done everything required and needs to finalise it." Then you said, "I hope you are still accepting our inquiries. Signed, Michael."---Yeah.

Do you see that?---Yeah.

There was obviously the possibility in the back of your mind that Mr Stavis might say, well, no, you're no longer a councillor, I'm not.---It's up to him.

40 You were testing the waters with Mr Stavis in that text message, weren't you, to see whether you could continue to have the relationship with him that you had been having while you were a councillor?---I was just asking him if, if he's still accepting our inquiries. It's up to him to make the decision, not, I mean, it's just a standard inquiry because you're no longer a councillor and if he wants to deal with us still or not, it's up to him.

Can we play, please, the audio file of Exhibit 225.

AUDIO RECORDING PLAYED

[12.04pm]

MR BUCHANAN: Mr Hawatt, you heard that recording being played?
---Yep.

And you recognised the voices of yourself and Mr Stavis?---Correct.

You literally asked Mr Stavis, this is in the first page of the transcript,
whether he was allowed to talk to you now.---Yes.

10

Why did you ask him that?---To make sure he's still comfortable in talking
to me.

And when Mr Stavis laughed and said, "One of my good mates, of course I
will," you accepted that as being a statement of how Mr Stavis regarded
you, as a good mate of his?---No, no. It's, it's a good mate, there's a,
work, we had a good working relationship, we had respect for one another
and, and, and that's the way he talks, a good mate, it's means is, there's a
respect there.

20

On the second page, just over halfway down, you said, "I said to Jim
Montague please stay on, don't, don't go." Why did you say to Jim
Montague please stay on, don't go?---Because there was a big concern in
regard to the staff and I think Jim was really concerned that the, the staff
that he had in Canterbury for a long time could all be under threat to, to go
and he was concerned about that.

30

Your concern in relation to Mr Montague was that if he left then you would
not have a general manager whom you could influence in relation to
planning and development issues, wasn't it?---No. It's all to do with staff.
All to do with staff.

And when Mr Stavis agreed, "Very, very important, mate," the third last
entry on the page, he was indicating by saying, "I think the staff will feel
much better, as well," that as far as he was concerned, how the staff felt was
something separate from the reason why it was very important that
Montague stayed on, wasn't he?---Because, because Montague was
protecting his staff. He wanted to ensure that his staff are all protected.

40

Yes, but what Stavis was indicating was that the reason it was very
important that Montague stayed was different from protection of the staff, it
was something else again because he used the words "as well".---Like
what? Yeah, that's his, because he's concerned about his job as well.
They're call concerned about, the staff are all concerned about their jobs as
well.

Now, at the bottom of page 3 of the transcript, Stavis referred to the SMS
that you had sent him about the Earlwood property and said that he would

chase it up the next day and on page 4, you said, “I have, I have to continue pressuring you but privately, huh,” didn’t you?---Yeah that’s just a, a joke.

Well, this is not the first time that you had openly talked to Stavis about the fact that your relationship was one which involved you pressuring him.

---No, it’s - - -

10 This is another example.---This, this is just a passing comment, I’m going to pressure you, yeah, can you still talk to me. It’s like, it’s a very casual, blasé comment that I, that I made which was just like a, I would do anyone. I would, I’m going to pressure you. Doesn’t mean I will pressure.

It’s an accurate description of what you, in fact, had been doing with Mr Stavis in relation to his work as director of planning, wasn’t it?---That’s incorrect. Incorrect.

But then you went on to say, “but privately, huh.”---Correct.

20 What did you mean by adding the words “but privately, huh”?---Well, privately, so if I need to contact him, I’ll contact him.

No, you didn’t say that. You said “privately”. That’s as against “publicly”, for example, or “officially”.---No, if I’m sending him an enquiry, to him, in regards to some issues, it’s going to him, privately. Not, not to, not going anywhere else, it’s going to him, as the, as the person who’s in charge.

Did you mean “confidentially”, that is to say - - -?---No, no, no, nah, nah.

30 - - - that it was to be between you and him?---No, no, just privately, straight to him.

Excuse me a moment. Now, can I – excuse me a moment. I wonder if we could show Mr Hawatt, please, the transcript for Exhibit 226, the hard copy? It’s a little lengthy, but it might be a little quicker than playing the audio file. Exhibit 226 is the transcript of a telephone conversation where you had called Mr Stavis at 9.51pm, on 17 May, 2016. If you could read the transcript to yourself, please, and then I’ll ask you some questions about it. So it’s an extract of the recording. It doesn’t include material at the end which didn’t relate to the subject matter of this enquiry. When you get to it,
40 Mr Hawatt, can you just tell me when you’ve got to page - - -?---Sorry, which page?

Page 5.---Oh, sorry (not transcribable)

There’s a change I need to signal.---All right, yeah. Yeah, I’m page 5 now, so - - -

On page 5, can you see the third entry, where what's attributed to you reads, "So that way it gives certainly," in fact when you listen to the audio tape, you said, "So that way it gives certainty," with a T.---Yeah. That's fine. Yep.

10 So what was happening at this stage, 17 May, 2016, so far as your relationship with Mr Stavis was concerned, was that you were trying to ensure that Mr Stavis remained in place as director of planning and retained his influence in the amalgamated council. Is that fair to say?---No, no. I would prefer somebody like Stavis personally that a person who understands issues and, and planning issues and has common sense in regards to problems, yes, he was, he's always helping people and sorting out problems and resolving them, yeah.

20 It would be good, in other words, for you to – I withdraw that. It would be good for the development proponents for whom you advocated that Mr Stavis remain in position as director of planning, having regard to the position he took of trying to find solutions where the development proponents ran up against planning controls that constrained the developments they proposed.---No, he's, he's just good for any, any inquiry about, that I pass on to him, he understands. He understands and he, he, he acts on it and he's good in that area, yes, I would, that's how I support him because he acts upon issues that I raise with him.

Did it surprise you when Mr Stavis told you that Pierre had rung him earlier and spoken about Mr Montague?---Oh, I don't, no, it didn't surprise me, no, just, the line is open.

30 You and Mr – I'm sorry?---The line is open if they want to talk to each other, it's up to them.

You and Mr Azzi though were speaking to each other on a regular basis during this time, weren't you?---Yeah, we must be, yeah.

And you took part in meetings at his house about what to do politically, strategically, tactically, as a result of amalgamation?---Yep, yep.

And what to do in the future, yes?---Political, yeah, all political.

40 Even though he was in the Labor Party and you were in the Liberal Party, you were both concerned together about retaining influence at this local government body, weren't you?---No, we just got involved in, in the politics of, of, of the council, it didn't matter whether Labor, Liberal, just the politics in there, and it just continued on, it's just the way the politicians operate I guess.

But the reason that you wanted to do that was to retain influence over planning and development decisions, wasn't it?---No, no, just to continue

with the future, running for council maybe, may not be, having good people working there, it's, it's difficult sometimes to, to get, to get good people working in council and to me it's, to change that would be crazy, if you have - - -

10 And amongst other things, you discussed with Mr Stavis while he was still director of planning various planning and development issues at council in respect of which you were an advocate for particular development proponents.---No. People continued sending me inquiries, I forwarded on, like, like the one I did in Earlwood.

Or where they didn't send you anything before amalgamation but you had been acting for them before amalgamation.---I'm just not acting for them, I'm representing people who, who made inquiries with me.

20 Now, you spoke to, you told, page 3, bottom of page 3 of the transcript, you told Mr Stavis about the administrator ringing you and asking you if you wanted to be on the community consultative advisory thing. See that? ---Yeah.

And then over on page 4, Mr Stavis said to you, "I think you should get on there, Mike, please." Did you have an understanding as to why it was that Mr Stavis wanted you to get onto that committee?---No, just probably want me to continue being part of the council, that's, it's, as a, as a, a friendly gesture for, for me to continue being part of, part of the council, somebody who can have, he can talk to and, and has trust, that's all it is.

30 Someone who could continue to give him the guidance that he had been receiving from you since his appointment?---No, no guidance. Give him support when, when he needs it and, and he knows I've always given him support based on whatever he did, he did, we backed him up against any, any developer that, that came forward and he knows that. I always back him up for doing the right thing.

40 Now, page 5 of the transcript, a bit above halfway down the page, you said, "So they're doing that in August, so we'll be there but we talking to you." I'm sorry, I do apologise, "but we talking to, I heard again that, you know, Matthew is on board in regards to your position." Matthew is a reference to Matthew Stewart?---Could be, yeah. Just - - -

And you had heard, had you, that Mr Stewart was looking favourably on retaining Mr Stavis as director of planning, is that what you were saying to Mr Stavis there?---Well, what I heard, because, because, yeah, correct, because the feedback that Mr Stewart had was that Stavis is a, is a good worker and who, a person who understands planning and has the respect of a lot of the, the people who made enquiries on, in regards to the issues.

From whom had you heard that Mr Stewart was on board in regards to Mr Stavis's position?---I, I, I don't, I don't recall who, it just, just a general, just a general - - -

Was it Mr Stewart?---Sorry, I, I don't recall. I, I can't tell you.

10 You spoke to Mr Stewart after he became the interim general manager, didn't you, more than once?---I think, I think we spoke to him and we had a meeting once with Mr Montague and he might have said keep, keeping staff.

Did you ask Mr Stewart about Mr Stavis?---It's to do with keeping the same staff, that's all, that's all, that's what the, both Mr Montague and ourselves were, when we spoke to Mr Stewart in regards to ensure that all the council staff are, are looked after.

THE COMMISSIONER: So all council staff?---All, all council staff, yeah.

20 MR BUCHANAN: That was different, wasn't it, from the position you had taken back in March of 2016, two months earlier, when you had been talking with Pierre Azzi and with Khal Asfour and Matthew Stewart, about what should happen after amalgamation and you expressed the view that only one person should be retained, namely Spiro Stavis?---Look, I don't believe that. It's, if, if you, if I recall Jim Montague, he, he would not have a bar of it. He wanted to protect every member of his staff and I remember that and I think I supported that.

30 No, no, no, no. The position you took and Pierre Azzi took in March of 2016 was that the only person you wanted, you both wanted to see retained after amalgamation was Spiro Stavis, wasn't it?---Well, if, I don't recall this but if, if I said that, I mean, I don't recall it, if I said it's probably based on they're maybe getting rid of staff. I mean, Matt Stewart could have said, "Look, we have to restructure and get rid of staff," and we said, "Look, this guy is, he's a, he's a, he's a good worker and, and people have a lot of respect for him." That could have been the, the comment that I would have made.

40 Did you talk to any other director in the same way as you were talking to Spiro Stavis on 17 May, 2016, about whether they would be retained in their position?---I never, look, I had dealings with all the directors and the ones I had most dealings with - - -

Sir, after amalgamation, did you talk with any director, other than Mr Stavis, in the same way as you were talking to Mr Stavis on this day about him being retained in his position?---Well, no, because I had more dealings with Stavis and the issues continued with, in regards to Stavis.

Now, you discussed with Stavis, tactics in dealing with Stewart with a view to Stavis being confirmed in the position of director of planning, didn't you?---No. The tactics is, look, every general manager has, had this thing about loyalty to, to their, from them to their staff. That's normal, that's, and just my comment, he's loyal to you, he'll be loyal to your GM and, and that's what they like. They hate any staff who are not loyal to them.

And so Stavis said to you, bottom of page 5, "That's why I sent him that," referring to the email that he spoke about earlier in the conversation.

10 ---Yeah. Just loyal, to do with loyalty, that's, that's it.

You were encouraging Mr Stavis to show loyalty to the interim general manager despite the fact that you were, you had regarded the retention of Mr Montague as preferable to him being replaced by Mr Stewart.---No, it's, look, it's, at that time, there was, as I said, there was looking at restructuring. They can't have all the directors there. And I said, look, you, I just made him my, my observation and, and, and, and advice – it's up to him to take it – is to be positive and, and, and show loyalty. That's, that's my advice to him, which is, I don't see any issues with that.

20

And page 6, you went on to give the advice, after Mr Stavis said, a bit over halfway down, "I'm hoping to build up the relationship that way," you said, "Yeah, and, and you've got to play the game. You just got to toe the line." ---Correct, be loyal. That's, they (not transcribable) that's right.

You had a stake, didn't you, you had a vested interest in Mr Stavis being retained in the position of director of planning.---No, the guy was a good director. I believed he'd, he did a good job, and he, he performed, he performed well in his job. And I had no problems in, in, in, in, in having, in supporting him, because if, oh, if people called me for any enquiries or problems, at least he's there to, to look at it and resolve it, and to me, helping people is, is my main priority, and someone like Stavis to help people would be a, a big advantage instead of having somebody like Marcello who, who I said a Mr No-No. And that's, to me, that is a, a positive advice to, to having Stavis there.

30

You were trying to undermine the administrator and the interim general manager of the amalgamated council, weren't you?---No, it just a, just an advice, it's just a passing advice that I, from experience that I have, and this is the, this is the way the, the, the general managers operate. That's, loyalty, that's all they want.

40

The bottom of page 7, Mr Stavis said to you, "No worries, mate. I just thought I'd give you, keep you in the loop. I haven't seen, sent this to anyone else, it's just you."---That's fine.

Can you understand – can you give us assistance as to your understanding as to why Mr Stavis would have sent that email only to you?---Because he

trusts me, because he knows I always supported him and backed him up under any pressure he had from, from developers, everybody else. He trusted me because I supported him.

And you and then went on to say, top of page 8 of the transcript, “No, no, look, I’ll, I’ll keep this between you and I, really, I don’t want to make it too complicated for you.” And Stavis went on to say, “You know how I confide in you more than anyone else, you know that.” And then Stavis said, “I value your judgement. That’s why I sent it to you, so you know if anyone talks to you,” and then you said, “Yeah, no, I’ll keep that, I’ll keep that very confidential.”---That’s right. It’s all trust, it’s all trust and confiding in, in somebody that, who, who likes you because you backed him up.

It’s keeping secret your communications with the director of planning - - -?
---No.

- - - in particular, in the context that those communications are of a political nature with a view to interfering in the administration of the amalgamated council.---No, this has nothing to do, just giving advice to somebody whose, whose, whose job is under threat and who has, needs, needs assurance and you give him advice. It’s a free advice. It’s a good advice. And it’s up to him to take it or not. That’s, that’s the, that’s the way it is. Oh, he’s a, he was a good planner and I, I liked him, and I felt he, he deserves a, a, a, a better go. That’s my position.

You wanted to retain influence at council using Mr Stavis - - -?---No, he, he can’t - - -

- - - and influencing Mr Stavis.---You can’t have - - -

Correct?---Look, there’s, there’s nothing to do with influence. There’s a person who does the right thing, who, who, who, who follows things up. He supports people. Who, who achieves, has helped, gives them help and assists them. What’s wrong with that? It’s rare to get a person like this. It’s very rare.

If I can take you, please, to Exhibit – oh, that’s all with the 17 May telephone conversation. If I can take you to Exhibit 52, volume 5, page 306, some SMSs. If we can go to the bottom of page 306, please. Can you see that there’s a text message here extracted from your mobile phone which you had sent to Spiro Stavis on 20 May, 2016 at 1.41pm, “Can we catch up after work for a short meeting?” Do you see that?---Ah, yes.

And then going over to the next page, page 307 in volume 5, Stavis responded nominating a time, 3.30, near Campsie. You responded to Stavis, this is item 677, “Okay. Where in Campsie? Do you want to meet at the coffee shop opposite railway line near Campsie Station?” And then you gave directions. Do you see that?---Yeah.

And Stavis responded with the letter K, and abbreviation for okay.---Yeah.

You'd accept that?---Yeah.

And then the two of you from item 679 down to 681 exchanged text messages tick-tacking with each other as to your arrival at that coffee shop.---Yep.

10 And the coffee shop meeting was at 3.30pm that day. Is that right?---Yeah, most likely, yeah.

It lasted for about 18 minutes.---Yeah.

At the Coffee Story café at North Parade, Campsie.---I don't remember, there's a coffee shop there, yeah.

Why were you meeting Mr Stavis at this coffee shop?---Because it's close to the council.

20

Why not meet him at the council?---Oh, because it's just walking, look, it, we, I wanted to give him advice, it's a private advice, without having people seeing, seeing us and making their own assumptions on why we're meeting and to me that's, it's just a private meeting to give him my advice and, and relay messages to him. That's the way it is.

To obtain information from him and to influence him.---No, no, no, just to give, to give him advice and, and give him information, and I think he is a good guy and, and he deserves it.

30

Could we have a look, please, at, excuse me a moment, Exhibit 80, please, and it's a transcript of a telephone conversation between you and Mr Faker shortly after the meeting that you had with Mr Stavis at the Coffee Story café at 3.30pm. Can you see that it was at 3.51 that you rang Mr Faker that same day?---Yeah.

And you said, in the middle of the page, the first page of the transcript, "It's going in on Monday to department for final approval, and that's the end of it. It doesn't need to go anywhere." Do you see that?---Yep.

40

So you had obtained that information from Mr Stavis, hadn't you?---Could be, yeah.

And it was about the Homer Street planning proposal?---Yep.

And Mr Faker was a person whom you were feeding with information about progress of the planning proposal in which he had an interest for the Homer

Street site.---Well, he, he, he kept on making the inquiries and I kept the inquiries going, going through, yes.

So you did continue to ask Stavis for information about how the projects, the projects which were large commercial developments for development proponents whom you represented were going in council. That's what happened after amalgamation - - -?---I, I, I - - -

10 - - - between you and Stavis, isn't it?---I'm still nothing to do with large developments, it's to do with people who are making an inquiry, a continuation with the inquiry and I continued with it just straight after the amalgamation because these were the people that haven't achieved any outcomes yet and they're continuing asking you for help. I don't see any issues with that, I mean I have rights to, to continue with that inquiry.

You made enquiries with Mr Stavis about a development proponent who had a child care component in his development in which he had in interest, didn't you?---Which one is that?

20 A man called Joseph.---Joseph, this is the one in Hurlstone Park?

Joseph Jacob.---Yeah, yeah, that's Hurlstone Park, yeah.

You approached Mr Stavis to obtain information about that?---Correct because he had a lot of issues and there was a bit of, there was some issues he had in regards to that and I made some enquiries on his behalf, yeah.

30 Now, you also discussed with Mr Stavis, what was happening in relation to meetings of the IHAP and then meetings of the council constituted by the administrator after meetings of the IHAP when they considered development and planning issues, didn't you?---Well, if I did, I did. It's, it's an enquiry, I could check it on the internet but I'm asking for it.

But why were you concerned about the fact that – I withdraw that. You were concerned, in discussions with Mr Stavis, about a lack of business papers for the extraordinary meeting of council that was coming up as at 23 May, 2016?---For, for which one? For under the administrator?

40 Yes.---I, I don't, I don't recall that.

You were expressing a considerable interest in the processes, the decision making processes of council, so far as they could impact the interests of the development proponents for whom you had made representations, is that a fair thing to say, after amalgamation?---With regards to council, no, I, I had a political interest in, in the amalgamation, a political interest in what happens in the, in the future, it's all political interest but in regards to representation people, I continued helping people, I still today, to date I still advise people and assist them as much as I can. That's the way I am.

And you wanted to ensure that your contacts with Stavis remained secret?
---Look, I don't, look, in, in politics, if, if I make an enquiry to Stavis, it's, it's, it's, it's an enquiry that I make to, to Stavis and the way general managers operate, is, as I said, they wanted loyalty and, and I said to him, and, and I think from my understanding, Mr Stavis said, look, everything he does, he's got to pass it on to, to the GM at the time. So as far as I was concerned, I said no problems with that.

10 I wonder if I could show you the transcript of a conversation with Mr Stavis on 23 May, 2016, Exhibit 227, please. Excuse me a moment. Can we have a look, please, you can see the first page of it, it's in front of you.---Yep.

23 May, 2016, where you had ring Mr Stavis at 5.26pm and you can see there that you were making an enquiry of Mr Stavis as to how he had gone in a contact that he, Mr Stavis, had had with Mr Stewart about his work, Mr Stavis's work at council.---Yeah.

20 Can I take you, please, to page 10 of the transcript, and please just say if you would like to hear the audio tape played, but if I can just give you a little bit of context. Can you see, the bottom of page 9, if I can take you to the bottom of page 9, Mr Stavis is talking about what he and Mr Stewart had talked about.---Yep.

And Mr Stavis says that Stewart had said, "I want you to be loyal to me, blah, blah, blah." Do you see that?---Yeah.

30 "If any councillors ask you questions about things, just let me know, please."---Yeah.

And Stavis said, "I said, 'Yeah, no problem, okay.'"---Yep.

And then if I can take you to page 10, Stavis continues with his account then of a conversation he had with Stewart on the phone in which he says he reported to Stewart a conversation he'd had with Pierre Azzi about the business papers and a couple of other things, "maybe about IHAP and stuff."---Yep.

40 Do you see that?---Yep.

And then can I take you down to the third-last entry where you said, "I understand that, this, no, exactly, that is, that is very important, look, you know, but as far as, I mean, you know, we, we, you and I, we, we talk about other things and - - -" Stavis said, "Yeah, don't worry about that." You said, "Because as far as I'm concerned, nobody and nobody is going to know that I called you." Page 11, Stavis said, "No, no, no, no, no." You said, "Or anything because I don't want people - - -" and then Stavis said, "No, no, he knows, he knew because he raised the fact." And then you went

on to say, "The problem with Pierre." So, and then if I can take you to page 12, the entry at about halfway down the page where you're saying, "Yeah, no, that's fine." Do you see that?---Yeah.

And you went on to say, "I'm not going to say - - -" Stavis said, "Just between you and I." You said, "I'm not going to say a word." Stavis said, "No." You said, "About anything that you and I talked about." You knew - I withdraw that. You believed, didn't you, that these communications you were having with Stavis were wrong?---No. Why are they wrong?

10

You knew that it would not be good for you or for Stavis if people found out about the fact that you were talking with him about the business of the planning division?---I had no issues with communicating with Stavis.

What's your explanation then for the - - -?---Well, I, when I was saying - - -

- - - repeated language that you used indicating that as far as you were concerned, no one would find out about, and you didn't want people to find out about the fact that you were communicating with him?---Because people want loyalty, ex-councillors, I mean general managers would want to know if the guy sneezes, they want to know what time he sneezed, it's all to do with loyalty and as far as I'm concerned, any dealing with Stavis is based on giving him advice and, and, and communicating with him if there's any issues that people are facing. That's simple as that. And it's up to him, and I said it further down, it's up to him to pass on any information if he wants to tell the GM or anybody else, it's up to him, but it's preferable because of GMs don't trust anyone else except themselves, that's the way they are, and, and to me I had no issues, there was nothing, nothing that Mr Stavis can do, especially under the amalgamated council, that would entail anything that's wrong, he has to go through the process, he has to go through his staff, he has to go through the GM, so all I'm doing here is the same inquiry, the same advice and there's nothing, nothing bad about it, no, I don't see an issue with it.

20

30

There's nowhere in this conversation or indeed anywhere else where you said to Stavis that it was up to him as to whether he told Stewart about your communications with him.---I, I mentioned - - -

Quite the contrary.---I mentioned to him before verbally, I did mention it, as I said, "If you want to have this 100 per cent loyalty to, to the GM, it's up to you to, to do that." I remember saying that to him.

40

And if we can go to page 14 of the transcript, please. Now, a bit over halfway down Stavis finishes up his report to you of his conversation with Stewart, and then you said, "All right, that's good, excellent." Stavis said, "All right, my friend." You said, "Okay, thanks for that." Mr Stavis said, "Business as usual. No worries. I'll chase that up for you, okay."---So, I mean, yeah, he's, he's still following up enquiries and, and people call me.

This relationship that you had with Stavis you knew was wrong, and you were proposing that it continue and Stavis was indicating that he was happy for it to continue. He got political advice from you as to how to handle Stewart, and you got material from him by way of influencing his decisions and information about progress of projects in which clients of yours have an interest.---Oh, clients, I don't have clients of mine. I have people who made enquiries, and I'll follow them up, and it continued after the amalgamation up to, I'm, I'll still do it. People still call me for advice and, and I don't see any, any issues with it at all whatsoever. There's nothing, nothing wrong with what I'm doing, and there's, I don't think there's anything wrong with what Stavis was doing, because there's nothing was done that was illegal or wrong.

Can I take you, please, to volume 5, page 308, item 705? Sorry, can I just – before we go to that, can I just give – what we, if you just cast your mind, your eye down the messages between you and Stavis here, they start on 25 May, 2016, and go through to 4 June, 2016, you can see that there's a series of conversations about various matters that were in progress at, in the planning division.---Yep.

And then item 709, oh, 705, at, on 3 June, 2016, at 6.27pm, Mr Stavis said to you, "Mike, I'm free at 2.00pm tomorrow, if okay with you, tell me where you want to meet." That's 3 June, 2016.---Yep.

And 3 June, 2016, was a Friday. So what Mr Stavis was proposing was a meeting with you at 2.00pm on the Saturday. You understand that?---Yep.

And you responded, at 6.29pm, item 706, "Okay, my place. It's private." And then you gave your address. Do you see that?---Yep.

What was the advantage of the privacy that would attach to you meeting with Mr Stavis at this stage at a private place such as your home?---Well, it, it is private, and we can sit down and, and discuss what, whatever issues - - -

What was good about that?---If you want to discuss issues in private, that I passed onto him, and you can see there was a lot of enquiries that I made, shopkeepers, childcare centres, everything else, and just pass it on, passing them on to have a meet, to follow-up on this.

You meant, didn't you, so that no-one else would know that the two of you had had a meeting?---No, it's just, to me, it's just a, it's a private, it's a, like, it's always say, let's meet privately. I mean, that's, that's a common thing that we do.

Excuse me a moment. Could I show you a transcript, please, of a telephone conversation with Mr Stavis on the same day, 3 June, 2016, at 1.21pm? If we could show Mr Stavis the hard copy, please, of Exhibit 228.

FEMALE SPEAKER: Mr Hawatt.

MR BUCHANAN: I do apologise. Thank you. And I not only got you name wrong, Mr Hawatt, I got the time wrong as well. The time is 6.13pm. I apologise for getting that wrong.---That's all right.

Do you have that transcript – I'm sorry, we'll just get it in front of you.
---Thanks.

10

Now, can you see that on the first page, Mr Stavis said, "I forgot to mention today when I saw you that I met with Jabbour's architect today." It's the fourth entry from the bottom of the page.---Yeah, I saw that, yep.

And Mr Jabbour was a development proponent for a large-scale commercial development?---No, Mr Jabbour had an approval to build in Lakemba, not, not far from my office. He was building already, he, he started it and he had some issues in regards to the additional units that he needed or some design, there was a space in the building that he needed to resolve.

20

But it was a large commercial development?---Yeah, but that was nothing to do with me approving, it was approved, he just, the guy, well he built it and while he was building he, he had some issues because he needed to, to finish, the building was close to completion and he had some issues he needed, he needed to have resolved and he asked me, because I was in Lakemba, and he asked me if, if I, If I knew someone who can resolve it and I passed it on to Mr Stavis to look at.

And Mr Stavis came back to you?---Well, he must have.

30

In this conversation.---Well, yeah, he does.

Now, before we get to that, he referred to the fact that he had seen you earlier in the day.---So I, I must have raised it with him, yeah.

And where had you met on that occasion?---Oh, I don't recall, Could be, could be, is that the one at my house? I don't know.

Well, this is on the Friday.---I might have met him before.

40

Sounds, from what Mr Stavis said, as if you had met earlier in the day.
---We might have, I might have. I don't recall.

And can I take you to page 2. There's a correction in the transcript that we've made. In the middle of the page it has Mr Stavis saying, "You know how I told you they'd like to do some massaging involved," in fact, what he has be heard saying in the audio file is, "You know how I told you there might be some massage involved." Do you understand?---Yeah.

And so Mr Stavis was explaining to you that some changes might need to be made to the plans?---Correct.

Did you convey that information to Mr Jabbour?---Yeah, I think I would have. That's why I said to him, he needs to meet his architect, he had some ideas what they wanted to do and, and the problem with Mr Jabbour at that time, I recall this, he was running, running out of time and was, it was an urgent matter for him.

10

Can I take you to page 3 of the transcript, where after Mr Stavis had finished his report to you, you said, "Okay, did he, is he happy with that?" You were concerned, were you, that the person on whose behalf you were making these enquiries or representations, to use your language, was content?---Yes, correct. To see if he's happy, satisfied with the results, yeah.

You liked to have happy clients, is that a fair thing to say?---Yes, yeah, a hundred per cent. Happy people.

20

Now, can I take you to page 6 of the transcript. Do you see where Mr Stavis, at the top of the page is recorded as saying, "Matt Stewart is on my arse about the processing times and he's been auditing me." And then we went on to say, "Yeah, you don't know, mate, I'm mate, telling you now, this guy, I'll, I'll, I want to talk to you face to face, just you and I, all right?" And you said, "All right." You see that?---Yep.

Mr Stavis went on to say, "We need to, so we can, you understand what, what, it's not going to be the same." You said, "Yeah." And he said, "We've got to play it differently." You said, "All right. Let's have a chat, we'll, we'll do that, we'll have a chat about that." Do you see that?---Yep.

30

Do you understand that Mr Stavis was indicating to you that you couldn't continue to deal with him or influence him in the way that you had in the past - - -?---No.

- - - before that conversation?---No, no, just pressure's on him from the GM.

Or rather you could do that, it's just that, to use his language, "We've got to play it differently." That is to say it will have to be done in ways that were different from the way it had been done in the past?---I don't understand what he meant, but as far as I'm concerned he just, there was pressures on him and he's got to change, change his priorities presumably. That's the different, he need to change the priorities based on his finishing his work.

40

So it was an indication, wasn't it, that the nature of this relationship that you had with Mr Stavis, which I think you'll accept was unique, was not one that could be allowed to continue to occur in the ways that it had prior to

that conversation?---These were all general inquiries, nothing to, to change or make decisions based on illegal decisions of anything, these are just a general inquiries. He, he gave me priority in order to, in regards to the people that I made the inquiries on behalf and, and he acted upon it and I think it's good for the, for the people that called me and I don't see an issue with it.

10 Can I take you to page 7 of the transcript. The third entry, and there's a change that we've made to our copy of the transcript here, where it says, "All good my friend," in fact the audio is, "All gone, my friend," which is a reference back, so to just give you the context, bottom of page 6, you asked, "How's the rest of the others, like Homer Street, they all going?" Stavis, top of page 7, "They all gone, they all gone, done I've cleared the decks." You said, "Oh, excellent, that's good." And he then said, "All gone, my friend." You understand?---Yeah.

20 Then he went on to say, "Oh, the one that, the ones that's going to give us a lot of grief I think, well, short-term pain for long-term gain, is we need to strategise about Joe's one on the corner, the big one." That was Joseph Jacob.---Yeah.

And Mr Stavis seemed to think that it was going to give a collective body of which he was a member, either you and him or council and him, a lot of pain, a lot of grief.---I don't, I don't recall this one, to do with the childcare centre, I don't, I don't remember that.

30 And he went on to say, "We need to strategise about Joe's one on the corner, the big one." He was talking about you and him there, wasn't he? ---No, he's, the guy there, there was a, there was a complaint in regards to one of the, see, there was a bit of a conflict, now, this one I remember, the childcare centre there.

But, Mr Hawatt, a story doesn't actually help at this stage. What I'm trying to understand is, what you understood by Mr Stavis saying, "We need to strategise," about Joseph Jacob's one.---I don't know, there might have been, there might have been some issues that he needs to, to, to address and, and, and see how, how he can find a solution to the, to the child care problem he has.

40 And he wanted your assistance in working out both that solution and how to achieve it.---No, just I give him advice and people come to me and ask me for a problem in regarding that issue with the child care and, and I give him my advice and he's trying to find a solution.

I made a mistake in suggesting to you it was Joseph Jacob's. It was Joseph Alha's one on the corner, the big one.---Oh, Joseph Alha's.

It was a large mixed-use development, Joe Alha's one on the corner.---Oh, that one, his, yeah, that was a problem, that's in the masterplan.

I note the time, Commissioner.

THE COMMISSIONER: Is that a convenient - - -

MR BUCHANAN: Yes, it is. I haven't finished with this particular telephone conversation, but I do note the time.

10

We'll adjourn for lunch and resume at 2.00pm.

LUNCHEON ADJOURNMENT

[1.00pm]