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INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC
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PUBLIC HEARING

OPERATION DASHA

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 30 APRIL, 2019

AT 2.00PM

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

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

MR BUCHANAN: If we could return please to the transcript of Exhibit 228 and page 7 of the transcript. Just to recall, Mr Hawatt, I asked you questions about Mr Stavis saying, and this was a third of the way, a quarter of the way down the page, "We need to strategise about Joe's one on the corner, the big one. Can you see that?---Yep.

10 And you wouldn't accept that what that meant was that, as far as Mr Stavis was concerned, the two of you would strategise as to how that could be progressed?---Oh, it could be what he meant, like, because there was a lot of, Joe was hounding everybody to get, to get his thing done.

Can I take you to the bottom of page 8 of the transcript, where Mr Stavis said halfway down, "I spoke to Joe today," and a bit further down, "I think the best thing, and I said to him the best thing is to call a meeting so I can have everyone there as well and I'll reinforce what we agreed to in principle, so they can move forward, all right, so they can't deviate." That
20 was, in fact, Mr Stavis strategising, wasn't it?---No, no. From, from memory on this one, because I remember Joe was complaining about - - -

No, no, no. Please, I'm just asking you about that passage in the conversation. That is an example of Mr Stavis strategising with you and telling you he was strategising with Joe Alha?---To me, it's just like, he's worked out a solution and, and he wants to move, move on with it and he said he will, he's going to give him the rules and tell what he wants and, and that's it, that's, to me that is strategising that you're talking about.

30 Top of page, you agreed with the strategy that Mr Stavis told you he had proposed to Mr Alha?---Yeah, which means is, is he going to get what he wants, which Joe doesn't, he's not going to get what he wants. He's saying this is what I believe is right and, and that's the way, and he's going to lay the rules to them. That's what he's saying.

That's all in relation to that exhibit, thank you. Can I take you, please, to Exhibit 52, volume 5, page 309, and to item 721 on page 309? Can you see that that is a text message that you sent to Mr Stavis at 12.27pm, on 10 June, 2016?---This is 721?

40 Correct.---Yeah, yeah.

And the message was, "Hi Spiro, can pass by us (myself and Joseph) re legal advice for child care at New Canterbury Road? Thanks, Michael."
---Yep. Yep.

You were asking Mr Stavis to leak to you and to Mr Jabbour the legal advice that had been obtained by council in respect of his, Mr Jabbour's, proposed development.---No, that's the childcare centre.

Jacobs. I'm sorry, Mr Jacobs.---Yeah, that's the child care, yeah.

Thank you for – I take, I stand corrected. Thank you for that. You were asking Mr Stavis to share with you the legal advice that had been obtained by council in respect of Mr Jacobs's development, proposed development.

10 ---Oh, I'm not sure whether that legal advice is from council or from Joseph. I don't know. I don't know who got the legal advice.

Well, if it was from Joseph, there would be no need for you to ask Mr Stavis to pass it by you, would there?---He might, I might have, I might have seen him somewhere, and he says, "Look, I got some legal advice." I don't know, I just, I don't remember this, but - - -

Well, we can answer your question. Item 273 is a message the same day that you received from Mr Stavis, at 5.39pm and it starts out, "Mike, it is the
20 opinion of our lawyers," and then he goes on to summarise the opinion. So there's no doubt about it - - -?---Yes, he's, yeah.

- - - you were asking for access to the legal opinion that had been obtained by council for council in respect of Mr Jabbour's application, wasn't it?
---Well, no, it's, oh, I'm just - - -

I'm sorry, Mr Jacobs's application.---Yeah, I'm just reading that. "Can pass
30 by us (myself and Joseph) re," maybe just give us the, the advice, what he's, what he, what, what the legal advice is, I mean, I don't, I don't know. I'm just reading it.

The, how many times did you in the time that Mr Stavis was director of planning obtain from him access to legal advices that had been commissioned by council for council?---Oh, we always been told what the legal advice was. It's not, not confidential.

So does that mean many times you obtained access to them?---No, no, whenever – no, whenever there was an, a, a, an advice and we have an enquiry, and a legal advice, then we told about it. It's not that, every time.
40 Whenever there was an enquiry or something, and there was a, a, some legal opinion, then we were told about it.

Because you were councillors.---Because we were councillors, and because that's - - -

But you were no longer a councillor on 10 June, 2016, were you?---No. But still I, I was making representation.

So it was quite – you knew, didn't you, you were doing something quite improper in asking Mr Stavis to pass by you and Joseph Jacobs council's legal advice.---It's not, it's not improper. It's the same, it's the same, it's to do with this guy who's been probably waiting for, I don't know how long it's been, could be a year. And he just, he's just passing the information, he wants to finish it off, just a, a childcare centre.

10 Excuse me a moment. Can I ask you about a DA for a site known as [REDACTED] Ridgewell Street, Roselands? Does that address ring a bell with you?---No, it doesn't.

That was a site - - -?---Oh, yeah, yeah, that's – no.

- - - neighbouring onto the property owned by Mr Stavis and his wife.---Oh, the neighbour next door, yes, yes. Ridgewell, yeah.

20 What role did you play in relation to the DA for the dual occupancy development at [REDACTED] Ridgewell Street, Roselands?---I, I was representing the, the neighbour.

You were representing, also, Mr Stavis, weren't you?---No, I was representing the neighbour.

And what did you do in representing the neighbour?---Just to relay the concerns he had in regards to the delays and, and the issues that – I think Stavis raised a concern regarding his privacy and he just rang me to - - -

Who rang you?---The, the, the neighbour next door.

30 Mr Fadi Zreika?---Fadi, that's the one, yeah.

The first person to contact you in this regard was Mr Stavis, wasn't it?---No. No, he called me first. I didn't know, I didn't know it was the neighbour. I didn't, I didn't know that was Mr Stavis until he told me.

So what did you do after Mr Zreika contacted you?---I went and saw him to see what the problem was.

40 And what did you do after that?---He said to me, "Somebody from council." I said "Who?" He said, "There's a guy in council" - - -

No, I'm asking you what did you do after that meeting with Mr Zreika?---I made enquiries, I made enquiries through Stavis and I found out it was him.

So you spoke with Stavis, did you?---That's correct.

And what did you say?---Just asked, I said, "What is the issue with, with the neighbour and the guy is waiting to get his house finished," or something

and he told me there was some privacy issue, then I started relaying the concern back to Zreika in, in regards to, to the problem that, what's his name, Stavis had and then we just started coordinating between the two trying to resolve the problem.

10 You received a text message from Mr Stavis on 23 September, 2015, a series of text messages I want to suggest, volume 5 in Exhibit 25, pages 281 and 282. If we could have a look at those please. The bottom of page 281, can you see that, first of all, 23 September at 5.09pm, item 304 on page 281, Mr Stavis said, "Mike, please call me when you're alone. Spiro." Do you see that?---Sorry, which, which one?

It's item 304, second last on the page.---304, sorry, yeah, I'll just read it for you. Yep.

And then at 8.54, he said, "Can we meet at 12.00pm in front of [REDACTED] Ridgewell Street, Roselands on Saturday re your neighbour."---Yep.

20 Had you already had contact with him on behalf of Mr Zreika at this stage? ---Well, I must have, I must have spoken to him about it when, when I went out because the guy was complain about some council staff who was living there and I must have asked Stavis about it and it turned out to be him.

See, I want to suggest to you that what in fact happened is that Mr Stavis approached you and that was your first involvement in the matter.---No, no, no. That's not - - -

30 And you approached Mr Zreika on behalf of Mr Stavis, purporting however, to have Mr Zreika's interests at heart and essentially acted for the two of them?---No. No. He, he called me, he was swearing, cursing and, and he said something, he called someone else first, some other councillor first.

Who's he?---Mr Zreika. And he wasn't getting a response and then - - -

40 Going to page 282, item 307 on 23 September, 2015, at 9.17pm, Mr Stavis said to you, "I have to be careful, though, because I've got an independent consultant assessing it and I don't want me to be accused of influencing the decision. Hope you understand. I'm sure we can work it out though." Do you see that?---Yep.

You understood, did you, that Mr Stavis didn't want anyone to find out that he, Mr Stavis, was influencing the decision on the DA?---No, from my understand, he put George Gouvatsos on to it, that's from, from memory because the guy - - -

And the question is, why were you retained by Mr Stavis?---I wasn't retained by Mr, I've been representing the neighbour.

And you said at 9.20pm, item 308, "I can explain your issues," to Stavis.
---To the neighbour, correct.

No, no, you're talking to Mr Stavis, "I can explain your issues. Let me know how to resolve them and what they are."---That's right, I can explain his issue to the neighbour.

You had taken on the task of representing Mr Stavis in this - - -?---No, I said
- - -

10

- - - after he had told you that he didn't want anyone to know about what you were doing for him - - -?---No.

- - - because he wasn't allowed to influence the decision.---Oh, this is really twisting the facts. It's not - - -

Well, I'm not twisting anything.---It is.

20 These are the words in the messages on the page in front of you.---I'm representing the neighbour. I said, "You tell me what your issues are." He's the one, he's the, he's the other neighbour who's complaining about the development next door or the house being built next door and then I said, "Tell me what is your concerns so I can back, go back to Mr Zreika and tell him." This is, this is unbelievable.

What's unbelievable?---Well, what I'm hearing. I'm representing the neighbour, not, not Mr Stavis. God.

30 Now, could you have a look, please, at item 312. This is on the 24th, the next day, 24 September, 2015, at 5.29pm, you passed on, didn't you, to Stavis what Mr Zreika had said to you in that text message, didn't you?
---I passed on, sorry, to?

Mr Stavis - - -?---Yeah, (not transcribable) as requested.

- - - what he, Mr Zreika, had said to you?---No, I know what Mr Zreika's concern was, he just wants to finish his house.

40 Well, let's go to the message, please. Item 312.---Yeah (not transcribable) as requested.

You said to Mr Stavis, "Can you have a look at the below message, thanks." And the below message starts, "Hi, Michael."---Yeah.

Who was this message from?---Could be Mr Zreika, I don't know, just trying to work out, the points of issues, the DA for the, the planning team have raised are non-compliant. Or it could be coming from council.

I apologise, Mr Stavis, it relates to a different property. I apologise, Mr Hawatt, it relates to a different property. I withdraw that. Can I take you to – excuse me, please. I withdraw that. Did you receive any plans from Mr Stavis?---No, Mr Stavis, what happened is, he, he showed me, when I met with him in regard to the concern and he said, “Look, if he can, if can do this with the fence higher and, and, and then maybe have the setback,” something that he was concerned with, and he gave it to me and I gave it to, to Zreika and I said, look, if he can address these issues from the neighbour his concern, and then it’ll be, he won’t make the complaint and it will be
10 resolved.

THE COMMISSIONER: So he, Mr Stavis did give you some kind of diagram or - - -?---He gave me something about what needs to be done, yeah, I remember something.

MR BUCHANAN: And on it there were annotations that you understood to be by Mr Stavis showing the changes that he wanted made - - -?---To the guy next door.

20 - - - to Mr Zreika’s plans.---Correct, yeah, yeah.

Now, was there anything ever said between you and Mr Stavis about what would happen to Mr Zreika’s DA if the changes Mr Stavis wanted were not made?---No, never said that.

Was there anything ever said to indicate that if Mr Zreika did not agree to the changes that Mr Stavis wanted, then Mr Zreika’s DA could be delayed? ---No, no, nothing like that.

30 Or that he could end up with an unfavourable result for his DA?---No. Look, all Mr Zreika wanted to do is just fix it up and just move on.

But was there any strategising between you and Stavis about how best to ensure that Zreika would agree to the changes that Stavis wanted made to Zreika’s plans?---There is no strategising, there is no conspiracy, there was just a straight communications between the two parties and I happened to know, to represent both of them at the time trying to resolve the problem. I told Mr Zreika and all he wanted to do, he said, “I have no problems with doing that.” He just wants to move on and start finish his house.
40

But what was the negotiating tactic that you used with Mr Zreika?---What tactic? I just - - -

How did you approach the negotiations with Mr Zreika to persuade him to agree to changes to his plans that he wouldn’t otherwise have agreed to? ---I didn’t persuade him to do anything. I just said, “This is what the neighbour’s complaints are and if you can do this it’ll be, he won’t complain.” I just gave, gave him the complaint he had.

Thank you. If you can do this is, if you can make the plans, if you make the changes to the plans. Correct?---Just fix that, he said, the neighbour's concern is this, and he said if this can be done it can be resolved.

And then you said you told Mr Zreika, "If you can do this, he won't complain." Meaning Mr Stavis would withdraw his objection. Correct? ---Well, he's the neighbour, he's, he's, he's wearing two hats on this particular one.

10

That's what you told Mr Zreika. Correct?---That's what I, this is what the neighbour's complaints are and if you can resolve this issue this way it'll be okay, and as far as he was concerned he had no problems with that.

How would it advantage him unless Mr Stavis's objection was withdrawn? ---He wants to resolve the problem, that's all the guy wants.

Why was it a problem for Mr Zreika as you understood it?---Because he wanted to finish his house, he was stuck.

20

And he couldn't finish it - - -?---Well, he was stuck in a, in a dilemma in regards to the council and from memory I think Mr Stavis gave it to George Gouvatsos to look at.

And is it right to say that – I withdraw that. You learnt that from Stavis, did you?---Learnt what?

That he had given the matter to Gouvatsos?---Yes.

30

He told you that?---Well, yeah, that's what he said, keep an arm's length.

He told you that he had given it to Gouvatsos to ensure that the determination of the DA was at arm's length from him, Stavis?---From memory I - - -

He told you that?---From memory I remember mentioning George Gouvatsos, yes.

40

And yet you knew he was using you to achieve what Mr Stavis wanted to achieve by way of changes to the plans - - -?---No, he's, Mr - - -

- - - which was anything but arm's length.---No, the guy's wearing two hats. One is the neighbour, the neighbour, and the other one is the director. His, his hat in regards to the complaint as a neighbour with privacy issues in regards into his, his, his pool and kids and privacy issues, which he raised a concern, he told me about it, I passed it on to, to the other neighbour and the other neighbour had no issues with it from memory and problem was

resolved. There was no conspiracies, there's no, no strategies, there's just a straight representing one person with the other, that's all it is.

Did you, did you discuss with Stavlis a strategy whereby the approach to Zreika would be to persuade him to agree to the changes to the plans, as a result of which Stavlis would withdraw his objection and then the DA could be determined under delegated authority instead of taking longer and going through the IHAP and a decision of the CDC?---Look, I don't recall that. All I recall is there was an issue between the two parties, the two
10 neighbours, and, and that had to be resolved and from my understanding they both were happy with what, what, what Stavlis as one neighbour wanted to do and the other one wanted to finish and from my memory it was a mutual agreement between the two parties in order to move forward.

You left the copy of Mr Zreika's plans which Mr Stavlis had annotated with the changes he wanted with Mr Zreika so that he could consider them and show them to his architect?---Most likely I would have, yeah.

Excuse me a moment, please. And Mr Stavlis kept you posted on a regular
20 basis as to what was happening with the processing of the DA.---For this one?

Yes.---Yeah, because the guy is, he was, he, he needed solution that Mr Zreika, he just, I said, "Look, keep me in the, in the loop," because I needed to pass the information on back to him.

Indeed, the Commission has this evidence, volume 31, page 239. Thank you. Volume 31, I'm reminded, is in Exhibit 232. This is an email from Mr Stavlis to Mr Zreika in which a number of people are copied, including
30 yourself.---Yep.

And this is after the plans had been amended by Mr Zreika in accordance with Mr Stavlis's wishes as conveyed by you. He says, "Fadi, all good. I have instructed the planner to finalise as soon as possible under delegated authority." You see that?---Yeah.

You had discussed with Mr Zreika beforehand, hadn't you, the advantages to Mr Zreika of having his DA determined under delegated authority as against going to the IHAP and to the CDC, hadn't you?---Mmm, no, I don't
40 recall – all I recall is the guy just wanted a, an outcome, and he was happy with the outcome. I didn't, I, I didn't sort of make this delegated authority. It's got nothing to do with me.

Excuse me a moment. That's all in relation to that document, thank you. Can I take you back to before the amalgamation, still talking about Spiro Stavlis. I wonder if we could have a look, please, at the transcript for Exhibit 86. This is a – well, it's – sorry, I wonder if we could pass to Mr Hawatt a hard copy of it, please. On the screen is the first page of the

transcript of this telephone conversation, on 17 December, 2015, at 6.17. Mr Vasil had rung you. It's between the two of you. You said to Mr Vasil, middle of the page, "Oh, you know, the phones" - - -?---Yes.

- - - "haven't stopped the phones. You know it's going to be a Canterbury Bankstown, a hundred per cent." And then at the bottom of the page, "It's hundred per cent, then it'll be Hurstville with Kogarah," and over the page, "Rockdale with Botany." Do you see that?---Yep.

10 So you had obtained information at that stage that any amalgamation so far as Canterbury would be concerned would be with Bankstown.---Well, I must have had some information from someone, yeah.

And where had you got it from?---Oh, I don't, I don't recall. There's so much, there's so many people you talk to, I just, I don't remember.

And can I take you to page 3 of the transcript? At the bottom of that page, Mr Vasil asked you a question, third entry from the bottom, "All right, okay, so is Spiro safe in Bankstown?" You said, "Yeah, yeah, yeah, no, no, we're
20 all ready, we're going to protect him." What did you understand Mr Vasil to be asking you when he said, "Is Spiro safe in Bankstown?"?---Because with amalgamation, they got to restructure in regards to staffing, and everybody has a, an opinion regarding, you know, because you can't have two directors and two planners. Oh, you can have, you know, one, one of each. So, as far as Stavis concerned, is he safe? It's like a comment. Is he safe in regards to his job? And it's, it's all talk, it's not, nothing's solid.

Well, you assured Vasil that, "We're going to protect him," to use your words.---Because Mr, Mr, Mr Montague wanted to protect all his staff and
30 he said that on a number of occasions.

Can I suggest to you that when you used the words, "We're going to protect him," you were referring to yourself, Mr Azzi, George Vasil himself, perhaps also Mr Montague.---No. It was we're going to protect him as a, because he's part of the, the, the ones that Mr Montague wants to protect his staff.

What was your understanding as to why Mr Vasil was curious to know whether Spiro, not some other director, but Spiro was safe in Bankstown?
40 ---I don't know. He just asked me and I just told him. He might, he might have a, he might have respect for him, like, because Mr, Mr Stavis is a, a person who understands planning and, and, and he resolved a lot of problems, including the DCPs and, and all the other issues. So, so George would probably be happy because somebody has an understanding of planning and George always raises issues in regards to controls and planning.

Your understanding was, wasn't it, that from the beginning Mr Vasil had thought that Mr Stavis would be a useful appointment as director of planning because he would be prepared to find solutions for developers and because he was susceptible to being influenced?---No, that's incorrect.

Now, over the page you said, this is page 4 of the transcript, "We'll protect all the people, that staff we have," and Mr Vasil said, "Yeah, yeah, yeah. No he, be careful he doesn't start thinking about," and then the next word is inaudible, and you said, "No, no, no. I told him. I told him." Vasil said, 10 "Oh, yeah, you told him?" And you said, "Yeah." And then you assured Mr Vasil that you had spoken to him. What was it that you had spoken to Stavis about that Vasil was concerned that Stavis might start thinking about?---I don't know, he might think about leaving, I don't know. Just, just reading that, and he said, I said here we're protecting all the people, all the staff, so I was correct.

Stavis was valuable to you and to Mr Azzi and to Mr Vasil, wasn't he?
---No. He was, he was a good, he was a good director, that's simple as that.

20 Can we play please LII 1382, a telephone conversation recorded on 30 December, 2015 and the recording to be played and the transcript are an extract of the conversation.

AUDIO RECORDING PLAYED

[2.33pm]

MR BUCHANAN: I tender the audio recording and transcript of that
30 extract from that conversation.

THE COMMISSIONER: The audio file and transcript of the extract of the recording LII 1382, recorded on 30 December, 2015 at 10.11am will be Exhibit 300

#EXH-300 – EXTRACT OF TRANSCRIPT SESSION 01382

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

You recognised the voices of yourself and Ms Kebbe?---Yeah.

When, looking at the first page of the transcript of the extract, you said that, "Spiro ah, is the best, it was the best move we did," you were referring, weren't you, to installing him as director of planning?---No, to do with the sacking, we installed him because, to do with, he was employed as a, he was an employee and he was going to be sacked, so we, we made the decision

that that was wrong, Mr, Mr Montague made the, a wrong decision we felt and that's all it was. We stood by that decision.

But when you said, "It was the best move we did" - - -?---Yeah, to, to - - -

- - - you're referring to the consequences of your move, aren't you?

---What do you mean, the consequences? I don't know, like - - -

The fact that Mr Stavis was then in place and all that flowed from that.

10 ---No, we just, we made, he's a, look, even she's commenting he's, he's a good guy and he does, he does the right thing. I said, "Yeah, it was a good move we made and we stood up for, for what we believe it right instead of being sacked," and as an employee at the time, because he was an employee, and that was it.

On page 6, sorry, on the second, I do apologise, towards the bottom of the first page of the transcript you said, "Lucky, lucky we did this move because if we didn't do that we would have had the worst people on the planet working for us." Again you were talking about the consequences for you, and in your opinion council, of having Mr Stavis in place rather than any of the other candidates for the director of planning position.---No. I've already explained my position in this regards and, and, and, and in regards to the future for Canterbury I believe we need to progress in Canterbury, not to sit on our hands and do nothing that they've done for the last 30 years. God.

And when you referred at the bottom of that page to, "Came from Leichhardt, came from Leichhardt," you're referring to Ms Jones, weren't you?---No, no, I'm talking about Leichhardt, Dawson was from Leichhardt, he was anti, anti-development, anti-progress. I think, what's his name, Marcelo could have been from there as well, I just don't recall. But as far as I'm concerned, I wanted to see progress for Canterbury, big progress, not sort of sitting on their hand.

Not a speech, please, Mr Hawatt.---Well, that's, that's my attitude.

Can I take you, please - - -?---Well, that's it.

Can I take you to the next page, please.---Yeah.

40 Now, then you and Ms Kebbe talked about Jim Montague. You said in the middle of the page, "He's only nice, he's only nice to us." And then you said, "No, I think, I think we taught him a lesson," and laughed. Do you see that?---Correct, yeah.

What you meant was that as a result of having caused him to have almost lost his job and the panic of having almost lost his job, he became pliable in your hands and Mr Azzi's hands.---Definitely not. He's just, look, there were circumstances that we all, we all made mistakes in, there was a period

where we all had issues and, and I think Mr Montague at one stage he became too cocky and made decisions that were, sometimes we felt that were incorrect and I think that this, this change we did, he realised that council is not one person, council is the whole body, including him and the councillors, and now he, whenever he does anything he, at least he, he realises that he needs to come back to council and, and discuss any, any issues with, with council. So, yes, instead of being cocky and making decisions without, without having calling for extraordinary meetings or, or discussing it with the body of the, of the council, now, yes, we taught him a lesson, realising that we're not a, we're a councillors that think and we make decisions what we believe is correct. And he knows that.

You were conveying, weren't you, that you had taught him a lesson not to cross your path - - -?---No, no, no.

- - - again when it came to the appointment of senior staff and significant decisions in relation to planning and development.---That's your interpretation, that's incorrect. I have a lot of respect for Mr Montague, not like that.

20

Excuse me a moment. Excuse me. If I could just have a moment to confer.

THE COMMISSIONER: Ah hmm.

MR BUCHANAN: Excuse me a moment. Can I ask that we play the audio file of Exhibit 253, please? This is a telephone conversation, Mr Hawatt, recorded on 26 March, 2016, commencing at 5.19pm.

30 **AUDIO RECORDING PLAYED**

[2.42pm]

MR BUCHANAN: Mr Hawatt, do you recognise the voices of yourself and Pierre Azzi in that recording?---Yep.

40 Would you look at the first page of the transcript, please. Do you see the large paragraph towards the bottom of the page where Mr Azzi was talking about having talked with Khal Asfour and that Khal had said to him, Pierre Azzi, "We should now talk"? This conversation was four days before the meeting at Bechara Khouri's house when you and Pierre Azzi and Jim Montague met up with Khal Asfour and Mother Stewart. Remember that? ---Yeah, there was a meeting between them.

And that was a meeting where, I think we've talked about this already, you and Pierre Azzi tried to persuade Matthew Stewart that he should, that none of the senior staff were any good except for Spiro Stavis and that he should keep Spiro Stavis on. Remember that?---Yeah, I, I don't recall. Yeah.

And you were trying to persuade Mr Stewart to take, to keep Mr Montague on in the capacity of a consultant. Do you remember that?---To do with, to help with amalgamation, yeah, I do, I remember something like that, yeah.

10 And in this conversation, this is in the lead-up to that meeting, where you're told by Mr Azzi that Khal Asfour had said, "We should now talk," and Mr Azzi said, "Then Michael has work and it's going to be very tough and hard to push for people we want to be in the transition, you know, how the councillors." Did you hear Mr Azzi talking to you about the problem, as he saw it, of ensuring that the people that, to use his words, "we wanted to be in the transition were retained after amalgamation"?---Oh, yeah, he's talking politics here, this is political discussion regarding transition, regarding councillors.

Certainly.---Yeah.

20 Certainly, but the particular thing which he is talking about is the need to make a decision about who to support being retained in the transition, and how to support them being retained. That's what he's talking about, isn't he?---Well, he's just talking political. There's nothing really solid that he can – I mean, nobody knows what's going to happen. All we're talking about the, we know there going to be an amalgamation, nobody knows what the structure is.

And if we can go to page - - -?---So whatever he says, it's, it's really, it's not, not, not solid.

30 Well, if we can go to page 3, there seems to have been an assumption from an early stage, at least here by late March 2016, that Bankstown would have the whip hand in the amalgamation, in the amalgamation that you understood was likely to occur. That is to say, Asfour and particularly Stewart would be in the positions to decide who would be retained in the amalgamated council.---Yeah, that, that was the period when everybody had to put a, like a submission to the (not transcribable) submissions to, in regards to if they want to continue, not continue.

40 Yes, and I'm not suggesting you're wrong about that. But what I'm asking you is to – you see, don't you, that this is a conversation where you and Mr Azzi are discussing how to try to negotiate with the Bankstown people, the mayor and the general manager there, with a view to ensuring that your preferred people were retained after what you call "the transition", or sorry, after what Mr Azzi calls "the transition".---Oh, look, this is political discussion regarding to staffing people, people who want people and people don't want people, it's like, talking about councillors, and which ones to retain, what about staff, which ones to retain. It's like, it's a general, very general, open discussions, political discussions, that has no, no basis, no foundation for any, any concrete foundation for it.

Except that the two of you were strategising about how best to retain Spiro Stavis as director of planning, weren't you?---Look, look, this is all hypothetical discussions, just political. You can see he was, he was angry of something and, and I'm just listening. I'm not, not even trying to go into discussion with him. But he's angry, he wants to relay his concerns and it's something that he, that's what he wants to talk about.

10 Can I take you to page 3 of the transcript in the fourth last entry, the paragraph attributed to Mr Azzi, after Mr Azzi says that he had told Jim Montague that he "Had to be happy, it didn't matter. He," Montague, "was going to be discussed." And Azzi says, "And you said to me, talk about Spiro." He's saying there, isn't he, you, Michael Hawatt, said to me to talk about Spiro.---It could be, I, I, I don't, I don't recall.

And then Azzi went on to say, "He," that's Mr Stewart, because he's talking a conversation with Stewart now, "confirmed it to me that he won't be one of the directors after transition."---Yeah.

20 And that's exactly what happened at the meeting on 30 March, at Bechara Khouri's house. That's what Mr Stewart said there as well, isn't it?---I, I don't recall (not transcribable)

30 After Mr Azzi conveyed to you what Stewart had said to him on the, before 26 March, 2016, at 5.19, going over to page 4, Mr Azzi says that he didn't want to argue with Stewart, and said to him, "Look, Matt, in the whole of Canterbury, all of them are hopeless. I'm with you. I agree. I don't want, we don't want anyone from Canterbury, only one person we're interested about, and I will go all the way behind him and push." And then he says he essentially threatened Stewart with losing his temper. That was about making sure that Stavis was kept in place after the amalgamation wasn't it?---Look, no, this is, look, there was, I'm just sort of remembering some of the points here. Mr Stavis was calling, he also had a concern about his position like the other staff have as well, and I think from memory Mr Stavis must have relayed that concern to, to Pierre and I think he, he relayed it to myself concerning about his position and I think as a, as a friendly discussion and a gesture to, to, to give him some assurance saying, yeah, we will talk to Matt and, to see what we can do to give you that assurance. That's, this is all political, it's not loose discussions, that's substance.

40 No disagreement by you when in the same paragraph it's recorded that Mr Azzi said, "You know when you upset me I get angry very bad, you take care of this one, I don't care about the rest." That was the proposition that Azzi was relaying to you he had conveyed to Mr Stewart - - -?---I don't know. Look, he's, he's been asking me to find out what's going on with the amalgamation and transition of who's going to be there, you take care of it and that's all I'm interested in. Look, I, I, if, if Mr Stavis called me and called Azzi and he called Jim Montague in order to protect their, his, his position, like probably other, other directors might have done, so be it. I

mean this is something that everybody's looking after their own, their own interest in regards to protecting themselves and, and, and as Stavis is being a good director and, and, he's, he's worked hard, he had a lot of respect from, from people, he's, he's, he's flexible, understands planning, and everybody's happy with him so yes, it's, it's quite obvious that he would be a good director to, to retain. I mean it's, and, and that's why Pierre and myself are saying, look, yeah, he's a good director and I'll say he's a good director at the time, he was doing a good job.

10 Can I just take you to one SMS in Exhibit 84, if I have the right reference. Page 11 and item 142 and 143. These are text messages that you received and sent from and to George Vasil on 3 February, 2016 in the evening. Mr Vasil texted you, "I have just been told the same thing as yesterday from somebody else. Everybody who supports you will go, including Pierre." And you responded, "Someone is using you to spread rumours to divide the team." Can you tell us what those text messages were about?---Could be the transition of the councillors, I don't know, that's - - -

20 And when you were saying to Mr Vasil, "Someone is using you to spread rumours to divide the team," you were referring in your use of the word team to yourself, Pierre Azzi and George Vasil, weren't you?---No, the team is - - -

30 Were you referring to anyone else?---Yeah, all the councillors because there's a transition, every councillor wanted to retain their position in regards to the, once the amalgamation is finished and, and there was to protect them because everybody was calling saying, look, what's happening, and I was getting a lot of calls where they think because I was a Liberal councillor I had all the contacts, connections, that I knew what was going on, but you know, end of the day it's, it's up to the government to make those decisions and yeah, we can talk as much as we like but it's, it's all, it's all based on really rumours and hearsay and, and, and, and fake discussions. There's nothing solid in there.

Did you mean the A Team, that is to say the councillors who supported you in votes on council?---Most likely, yeah, most likely it's the A Team, yes.

But it included, didn't it, George Vasil?---What do you mean?

40 Your use of the words, "the team."---The team. George has, this is coming from George, is it, this message?

THE COMMISSIONER: No, you're sending it.

MR BUCHANAN: No. That message came from you.---Oh, from me to George, sorry. I just need to understand.

So you're referring, are you, to the A Team, which is a reference to the councillors that supported you, yourself and George Vasil?---Everyone who supports you, I don't know, I'm not sure what, what, to George or, or including Pierre. I, I'm not clear on that message.

10 Can I take you please to Exhibit 224. This is an email conversation between 23 and 25 March, 2016, involving firstly Spiro Stavis, if we can look at the bottom of the page. On 23 March, 2016, Mr Stavis emailed Mr Montague at 8.11am with a draft resolution and it read, "As a matter of urgency, an investigation be undertaken to identify opportunities to increase the height control for sites in the B2 and B5 zones along Canterbury Road to 25 metres, that the findings of this investigation be reported to the next available council meeting with suitable site-specific recommendations for consideration to increase rue height controls and prepare a planning proposal to effect these changes." You see that?---Yep.

20 And there is a response by Mr Montague in the middle of the page at 10.05 saying, "Michael" – I'm sorry, when I say response, it's in fact forwarding it to you. No one else, just you.---Yeah, from Montague.

Yes. Saying, "This is a sensible approach that will improve consistency and development outcomes along Canterbury Road. I refer this draft motion to you for your consideration. Happy to discuss when convenient." Do you know why Mr Montague sent it to you and not other councillors?---Because I, I, I have a strong interest in, in developing Canterbury Road.

30 But do the other councillors not count when it comes to decision making at council?---Well, no, but the person, but it's always the person who makes the most noise, the person who makes, the most active, is the person that they will usually respond to and I was a, a person with, with a vision and I had ideas and, and I've always relayed those visions and ideas and, and that's why he's sending it to me.

40 Because he thought that if there was any motion on a planning and development matter that was to be put to council, then it first needed to be run past you to see whether you would support it or not?---No. I had, as I said, I had always believed in, in doing something for, on Canterbury Road. It's a badly neglected road that needs, need to have a lot of improvements and I believed that strongly for many years and, and I've always relayed that to him and that's why he's forwarding it on to keep me in the, in the loop.

But you didn't like this idea very much at all, did you?---I think it's a great idea.

Well, can I take you to your response on 24 March, 2016 at 3.42pm. "Hi Jim, we need to maintain control to ensure that any development along Canterbury Road that needs to increase height and FSR must provide laneway access and provide a better planning outcome which benefits

council and the public. If we lose this control, council and the public loses and we need to be careful on this one.”---Oh, yeah, the laneway.

10 “Don’t forget that council has gained its asset base for affordable housing assistance to help the needy, otherwise this could disappear.”---Correct. So what I’m saying here, so now it’s coming back, is council needs to have control in regards to ensuring that there’s laneways because once you give them, I mean that’s correct, once you give them 25 metres without conditions, laneways and all that, so they normally give back, like, if, if you say to them, look, you’ve got to give us laneway, they’ll always give something back, including affordable housing for, for helping that. Yes, that’s the control I’m talking about which is - - -

So Mr Stavis’s suggestion of taking a strategic approach to the loosening of building height limits on the B2 and B5 zones along Canterbury Road did not meet with your approval because that would mean that developers would be able to build to that height without having to seek the consent of council for their particular site - - -?---No, to - - -

20 - - - for that height.---No to, not lose control in regarding to, to laneways and, and getting something back for, for council, yeah, that’s, that’s something, look, if you, if this goes through for example, then there’s no restrictions in regarding to laneway, it’s like, yeah, you built, you don’t need a laneway, and this will be a big problem as far as I’m concerned.

I just point out to you that the word laneway isn’t anywhere to be found on the page. There’s no proposal that - - -?---Provide laneway access.

30 Laneways, I’m sorry, I do apologise, you referred to that yourself.---Yeah.

But there’s no part of that in Mr Stavis’s proposal.---Yeah, but this is my, what I’m saying, he’s got a, it’s a good idea what he’s done, but we need to not lose, just give ‘em, give ‘em a 25 metres without giving, forcing them to give us laneway. That’s what I’m saying.

You in fact thought this was a terrible proposal, didn’t you?---No, it’s not terrible, but - - -

40 Because you would lose control of being able to make decisions about particular development sites, didn’t you?---Absolutely not. As far as I’m concerned, I don’t want anything to do with it. All I’m saying is, yes, but we need to have control regarding access, how to do it, laneway and, and access and something back to the public. So if somebody says, look, I’m going to give you some laneway back, then yeah, we can, you can negotiate with them regarding to giving some affordable housing and some assistance back to council which, and it works that way, sometimes they give back maybe five units to council to help with affordable housing. This, this is something that council would benefit from, no one else.

Can I take you, please, to Exhibit 253, the transcript of it, please. Excuse me a moment. We looked at this earlier. Can I take you to the fifth page. Do you see there that what this records in the middle of the page, after you've been talking about Spiro and Mr Azzi talks about Tradelink, you say, in the middle of the page, "Yeah. All right. I have to, we have to talk about, because he had some ideas about making everything 25 metres." This is a recording of a telephone conversation on 26 March, 2016, so it's two days after that email that you sent to Mr Montague.---Yep.

10

You didn't seem to like the ideas about making everything 25 metres that Mr Stavis proposed, according to this conversation that you had with Mr Azzi.---Because I believe in laneways. I truly believe having laneway access is safe and it's a smart way of, of getting, getting it done, truly.

20

Mr Hawatt, there is no obstacle to having laneways inserted at the back of every single development in Canterbury Road if the building heights are allowed to be increased to 25 metres, is there?---Of course there is, you, you need to have conditions in there. You can't just give them – otherwise they're going to take you to, to the Land and Environment Court, and they'll, they'll beat you hands down at the Land and Environment Court, because they meet the LEP controls. This way, it's, no, you got to, you have a, you, you can, you can negotiate with them to put it in, bigger setbacks. Sometimes, sometimes the houses in the back are too close, too close, so you, you force them to make it wider, a, a wider setbacks or wider lanes, and, and you push them forward to, to the main road, then you can negotiate an extra two level, and you protect the residence at the back. I, I don't understand what you're talking about.

30

Can I play, please, Commissioner, LII 4753, a recording of a telephone conversation on 2 March, 2016, commencing at 9.42pm?

AUDIO RECORDING PLAYED

[3.11pm]

MR BUCHANAN: I tender the audio file and transcript of that recording.

40

THE COMMISSIONER: The audio file and transcript of the extract of the recording LII 4753, recorded on 2 March, 2016, at 9.42pm, will be Exhibit 301.

#EXH-301 – EXTRACT OF TRANSCRIPT SESSION 04753

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

You recognise the voices of yourself and Matthew Daniel?---Yep.

Mr Daniel was active in the Liberal Party as well?---Yes.

And you were perhaps complaining to him because he shared your affiliation about what the government – which shared that same affiliation, the Liberal Party – was going to do to the councils they were amalgamating?
---Yeah, I, I was, consultation is what I was after, mmm.

10

Can I take you to the last page of the extract, please, and do you see that the third last entry is where it's recorded that you said, "I mean, they don't even realise we have, we have control over, over bloody council in Canterbury, which we're in the minority and we still control over it"?---Yep.

Do you see that?---(No Audible Reply)

"They", of course, is a reference to the government.---Yeah.

20 And "we" is you and the Liberal Party, your Liberal Party colleagues.
---"We", oh, well, I'm say "we" is, is the, the, the, the councillors including the, the Labor councillors.

Well, no. You see, when you say, "we're in the minority," you're not talking about the Labor Party councillors, are you?---Yeah, we're in the minority and we have a, a, a control over the council, because we've broken the back of, of the, of the influence of the Labor Party over these years. We've broken them up.

30 Yes.---Yeah.

And when you say "we're in the minority," you're talking about the political, the councillors who were affiliated, formally affiliated with a political party - - -?---No, I'm - - -

- - - namely the Liberal Party.---Correct, I'm talking about the three councillors, this is the Liberal councillors, which is myself, Con, and, and Ken. We're the, the three Liberal councillors, and yeah, we have the control in regards to working with a team that's broken the back of, of the Labor
40 Party, which had control for many years, and they don't realise that it, it's not the same Labor as they had controlling the councils as, as we have now. It's political discussions.

You meant what you said to Mr Daniel there, didn't you, that despite you – the Liberal Party councillors – being in the minority, you – the Liberal Party councillors – still had control over council?---I wouldn't say control. We had a, we had a, a working relationship with a, a lot of, with all the

councillors, most of the council, I should say and, and we had a, a good influence over what we're doing, yes.

And that was how, according to you, you were able to exercise that control.
---No.

10 But I'm focusing on, if you wouldn't mind, the conclusion that you drew, namely that by that means you and your Liberal colleagues still had control over the council, notwithstanding being in the minority?---No. We had a, we had a, a good working relationship as far as we're concerned and we had a great influence to, to the rest of the councillors in regards to debates and we got their support, the non, the Labor councillors, most of them were Labor councillors, we had their support.

That's my examination, Mr Hawatt, thank you.

THE COMMISSIONER: All right. We'll just take a five minutes adjournment.

20

SHORT ADJOURNMENT

[3.17pm]

THE COMMISSIONER: Mr Drewett.

MR DREWETT: Commissioner, just before Mr Moses starts his cross-examination of my client, I'd like to ask for a direction from you, Commissioner, in relation to what I would submit should be a more limited line of questioning by certain counsel in the room in relation to my client.
30 Each counsel here has been granted leave to appear and has standing in this matter because we have a client – or as I understand, in the case of Mr Moses, clients – and as barristers we have a duty to act in the interest of our clients. In my respectful submission, the leave that had been extended to all counsel in relation to appearing and indeed in relation to cross-examining – and I make this application in relation to my client – should extend only insofar as it is in the furtherance of the protection of the interest of their specific clients. And by that I mean it should not be an opportunity for what could colloquially be referred to as a free kick in relation to areas that I would submit may well fall outside of the ambit of that particular interest
40 for which leave has been granted. And I can give an example, Commissioner, and it is just an example and - - -

MR MOSES: Should my friend be making this submission in front of his client? If you're going to go into an example, you should ask him to leave the room, Commissioner. Because I'm not sure what's about to come out of my friend's mouth, but I think we need to be very careful about this. I'm not sure what my friend's referring to, but if he's about to talk about evidence, his client should leave the room, because after he's finished I

wanted to address you on another matter which his client shouldn't be present for anyway.

THE COMMISSIONER: I'm sorry, I missed your last statement.

MR MOSES: After he has finished I want to address you on an issue that his client should not be present for while I'm addressing you on that issue.

THE COMMISSIONER: All right.

10

MR MOSES: Thank you.

THE COMMISSIONER: Mr Drewett, you're about to give an example.

MR DREWETT: I'm very happy for my client to be outside.

THE COMMISSIONER: All right. Mr Hawatt, could you pop outside and could we stop the whatever it is.

20

MR BUCHANAN: Streaming.

THE COMMISSIONER: Streaming, thank you.

MR MOSES: Transmission.

THE COMMISSIONER: Transmission, thank you. Right, Mr Drewett. Sorry. Are we right?

30

MR DREWETT: I was going to give the example, Commissioner, of evidence that has been led and questions in relation to questions properly put by Counsel Assisting, for example, in relation to my client's, his financial affairs, and we've heard evidence about transactions and money paid into accounts and things of that nature. I would submit that on no looking at it could that possibly fall within the ambit, for example, of cross-examination by counsel who is acting in the furtherance of the interests of members of a council for which my client has never worked for, by the way, Bankstown, although I understand there's some, perhaps, slight interest in relation to that. But the Commission shouldn't allow, for example, questions by learned Senior Counsel Mr Moses in relation to moneys, for
40 example, that have been paid into accounts and things of that nature, because in relation to the example I'm giving I would submit that – unless something can be shown to the contrary – that would fall well and truly outside the ambit of any interest that I would have thought my learned friend would have in relation to the furtherance of the interests of his clients, which as I understand it are employees of Bankstown Council.

Now, I know that this was a matter – and I don't have the transcript – but right at the start of the inquiry, and this inquiry has been going for a while, I

seem to recall an issue similar to this having been raised when I think my learned friend Mr Moses, Senior Counsel, asked questions, and I think, Commissioner, even you asked something to the effect of, "Well, Mr Moses, how does that affect you?" Well, I asked the same question, with the greatest respect, in relation to that specific example. What possible interest could be served in relation to Mr Moses asking a question like that, other than to be used in a way that, in my respectful submission, would be an improper line of questioning under section 41 of the Evidence Act? That is, to unduly annoy, harass or to intimidate my client. I have absolutely no
10 problems at all in relation to any counsel here in this room asking questions that do not repeat what has been put by Counsel Assisting and are relevant to their particular interests, but I come back to this colloquial expression of a free kick. It is not an opportunity for certain persons within this room to simply have an unfettered free kick against my client in relation to any subject that they so wish, and I would seek a direction in relation to that, Commissioner.

THE COMMISSIONER: All right. Just before we pursue this, can I clarify with you, first, the direction you seek is a direction to, first you would
20 exclude Mr Buchanan and Ms Mitchelmore.

MR DREWETT: Absolutely. I'm sorry if I hadn't made that clear (not transcribable)

THE COMMISSIONER: But a direction to all other counsel.

MR DREWETT: Yes.

THE COMMISSIONER: And what are the actual terms of the direction?
30

MR DREWETT: I haven't formulated the actual terms, but it would be a direction that their questioning be limited to the stated interest that they have in these proceedings, and that would be the interest as stated by counsel, the various counsels, when they sought leave to appear before this Commission. And once again I don't have the transcript here in front of me and I apologise for that, but for example, Mr Andronos represents Jim Montague. He would have sought leave to represent Jim Montague, and I would have no problems in relation to questions being asked by senior
40 counsel for Mr Montague that go directly to protecting any suggestion of wrongdoing or corruption or anything that falls within the ambit of this inquiry as it relates to Mr Montague, and the same for Mr Stavis and Mr Azzi and indeed for the various employees of Bankstown Council.

So it would simply be a direction from you, Commissioner, upon all counsel here, with the exception of Counsel Assisting and Commission staff, that their questions be solely restricted to matters that are relevant only to the furtherance of the interest that they have purported and, well, not purported,

have stated at the Commission should be the reasons for them being granted the right to appear before this Commission.

THE COMMISSIONER: I should, just to assist you, Mr Drewett, I'm looking at the transcript, page 52. The authority that was granted to Mr Moses was to appear - - -

#BREAK IN RECORDING

10

#RECORDING RESUMED

THE COMMISSIONER: And we're recording here. Terrific. Now, I'm sorry, Mr Drewett, but can I just, first thing, your submissions weren't recorded, but could I attempt to summarise that you're seeking a direction in respect of all counsel, with the exception of Counsel Assisting, that their questions and cross-examination be limited to the stated interest in the proceedings that they were authorised to appear on behalf of. You raised a particular example that you anticipated that Mr Moses may ask some questions about the financial evidence that Mr Buchanan's already taken Mr Hawatt to.

20

MR DREWETT: As an example, yes.

THE COMMISSIONER: As an example. My question to you was that your submissions seem to be based on Mr Moses and his junior counsel only being authorised to appear for individuals. They have been authorised to appear for the Canterbury-Bankstown City Council, and you may recall throughout the proceedings often they will say in submissions to me – or if there's an objection to a question – that they're representing ratepayers, and in particular that includes ratepayers of the Canterbury City Council before amalgamation. Now, the fact that they – Mr Moses and his junior counsel – were authorised on those terms, does that change your application in any way?

30

MR DREWETT: It doesn't. As I understand it from reading what I believe is the transcript that would cover the seeking leave from Mr Moses, Senior Counsel, he is acting for or appearing for 14 parties which, quite correctly, includes Canterbury-Bankstown City Council and a number of individuals. Just pursuing that very example that I gave in relation to the financial affairs – and it may be, for example, that learned counsel may have no interest in pursuing that at all, but I just give that as an example – in my respectful submission, it would fall outside the ambit of interest, I would submit, unless learned counsel can show something to the contrary, for questions to be asked that fall outside, sorry, that would encapsulate issues, for example, of the financial affairs of my client in terms of money going in and out.

40

MR BUCHANAN: Commissioner, can I be heard very briefly?

THE COMMISSIONER: I was about to suggest that instead of making a direction, and implicit in the authorisation, in a way, what Mr Drewett is seeking is already there, that the cross-examination commences and, for example, if Mr Moses moves into an area which, in your opinion, strays outside the authorisation, that you object then and there. We may be dealing just with a hypothetical issue.

10

MR MOSES: Well, I'm happy to proceed on that basis.

MR BUCHANAN: That certainly was going to be my submission, that it's premature and it could indeed be seeking a hypothetical ruling. The only matter I'd ask that be considered is that there are standard directions governing cross-examination, not the least of them being standard direction 19, that once a witness has been cross-examined on a particular issue, no further cross-examination on that issue will be allowed, basically, except with leave.

20

THE COMMISSIONER: Yes.

MR BUCHANAN: So I just remind us all of that standard direction. But in the meantime my suggestion is that we wait for the issue to crystallise, if it crystallises.

THE COMMISSIONER: Yes. I think, Mr Moses, you seem to be focused on (not transcribable)

30 MR MOSES: I think doing anything prematurely always ends in a mess anyway, so let's focus on what we're doing here. I wasn't going to ask questions on the financial affairs, but because my friend has indicated such an interest in them, I may have to reconsider that. But perhaps if we just get on with it rather than punching in the dark, as we might punch ourselves. So I think it's better if we get on with it, Commissioner.

THE COMMISSIONER: All right. Mr Drewett, that's what I intend to do, so if - - -

40 MR DREWETT: Well, can I just say in relation – and I know it was said in jest, but if it were, for example, the situation that learned counsel is seriously putting forward a proposition that he would consider an area of cross-examination - - -

MR MOSES: (not transcribable) that was said in jest, so I think we should just get on with it.

MR DREWETT: No, no. If it was not said in jest, then I would, I'd submit that that would be an improper form of questioning under section 41 and wouldn't be admissible in any jurisdiction in New South Wales.

THE COMMISSIONER: All right, Mr Drewett. Now, Mr Moses, you wanted to raise something.

MR MOSES: I wanted to address you on a particular issue that's already been the subject of correspondence between those instructing me and the Commission solicitor. Now, it's a matter for you, Commissioner, as to whether or not you would permit me to address you on this in the presence of other lawyers here present, given the content of the correspondence. It relates to an issue that we wanted to seek clarification on in relation to cross-examination on a particular allegation concerning Mr Hawatt. Now, we wanted to seek clarification on this particular issue given the content of your instruction to the Commission solicitor because, as we understand it, we are entitled to procedural fairness pursuant to section 31B and section 5.1 and 5.2 of the procedural guidelines. Of course, you can make a ruling in respect of a matter concerning cross-examination if you consider it's relevant to the investigation, but there's an issue that we wanted to raise with you in respect of clarifying what has transpired between the Commission solicitor and those instructing me to seek whether the issue that we seek to advance falls within that ruling. That's basically it in a very general way without disclosing what it is that I'm referring to. It relates to the correspondence of the 29th and 30th of April between the Commission and (not transcribable)

THE COMMISSIONER: Mr Moses, my view is I've made a decision. I can't really see what clarification is necessary. What I suggest is if you were seeking clarification, that be put in correspondence from your solicitor and I can see if clarification is necessary. But at the moment can I just state – and people are probably being a little bit mystified – an application was made to cross-examination on a particular issue which was referred to in material that the Commission had in respect of an issue not before the Commission and in this public inquiry. I asked through my solicitor that a basis for the application be set out. It was in correspondence, I considered it, and I provided my decision. So at the moment, Mr Moses, I'm not minded to revisit that decision. If you want clarification of it, my suggestion is that's put in writing by your instructing solicitor to the solicitor to the Commission, and I'll deal with it. Will that give you – are there issues that you can now cross-examine on?

MR MOSES: I can. I can cross-examine on other issues until that issue is clarified. I may need to revisit that with you in due course, but we'll undertake that course further and engage in correspondence.

THE COMMISSIONER: Thank you.

MR MOSES: We may ask, ultimately, for the correspondence to be given some sort of confidential marking so we can keep a track of it, because it's quite a serious issue for the council in terms of that particular matter which is, as I've said, a concern to the council.

THE COMMISSIONER: All right.

MR MOSES: Thank you. But I'm ready to proceed.

10

THE COMMISSIONER: Yes, if Mr Hawatt can return and if we can now stream it outside. Thank you.

MR MOSES: Are we ready to proceed, Commissioner?

THE COMMISSIONER: Yes, thank you.

MR MOSES: Mr Hawatt, you've said several times in your evidence that you regarded your role as a councillor was to assist or support people in relation to development applications. Correct?---Correct.

20

And that you said that you help anyone who asks for it?---Correct.

And that you're not driven by money?---Definitely.

And that you make representations for people even if you don't agree with what they're asking.---Sorry, when, I'm sorry?

And you make representations on behalf of people even if you don't agree with what they're asking?---I do make, yes, correct. But sometimes, sorry, it's, but when I do my research and I get the inquiries back and it depends on the outcome, if I feel it's like something that it's, it's a hard, difficult, what they're asking is for impossible, then yeah, so just pass it on and off you go.

30

Could I just ask that on the screen the transcript of transcript page 7185, if that could be shown on the screen of the evidence yesterday of Mr Hawatt. It's lines 26 to 30. I'm mindful, Mr Hawatt, you've been in the witness box for a while, so I just want to make sure that you have the evidence in front of you so you can remind yourself of what you said.

40

So if you just look at lines 26 to 30, the Commissioner asks you a question in respect of Mr Faker's proposal and you said, "I always help people to, for them to achieve what they want, I always help, I help everybody, that's the way, that's our job as a councillor, to assist to the people. We are, we are elected by the people to help the people, not, not the council staff, we represent the people."---Yep.

Do you see that?---Yes.

And that was your understanding, was it, of your role of a councillor?
---Correct.

Okay. And you understood, did you, that your role as a councillor was to represent the interests of the residents and ratepayers of Canterbury Council?---Correct, yes.

10 Okay. Now, that evidence that's on the screen about your understanding of what your role was in terms of helping people, where did that come from, that understanding?---Oh, just from years of experience since I started on council, the number of calls I get to help people and, and respond to them, and I've been a bit more active than others because I, I, I respond quickly to the people, that's why.

Thank you. Could the witness now be shown the transcript of his evidence on 24 April, transcript page 6930. So this is page 6930 of the transcript, and can we just go to the next page if possible. Thank you. Sorry, Mr Hawatt,
20 I'm just trying to find you the correct transcript page, it's easier to show you this on the page rather than read it out to you, just so that you are aware as to the accuracy of the evidence. Just bear with us. I might read this out if you can bear with my until my juniors can actually give me the page reference. I do apologise, I'm just going to read this out to you. You were asked this question by Counsel Assisting, "You didn't think that it would have been appropriate to disclose your relationship with Mr Maroun to the other councillors whilst you were arguing as to why his application, his development application to add two storeys should be approved on 10
30 March?" And this is the answer you gave. "I mean Mr Maroun, just like any other person that calls me for assistance and help, I don't go out of my way unless I believe in, in a particular application and if I don't believe in, in their support, I, I won't support it, doesn't matter who they are or Mr Maroun or anyone else." Do you recall that evidence? We'll try and get that up on the screen if you want to have a look at it.---No, no, that's okay.

You recall that?---Yep.

So is it the case that you only helped applicants and developers if you believed in their application?---No. After I do the, the, look, whenever I get
40 an enquiry regarding some issue - - -

I thank the Commission staff, it's on the page at the moment, at the top of the page that you have in front of you, you can see part of that evidence that I've just read out. Just want to understand that evidence. So do you want to answer that?---Can I explain it?

Yes, please, yes.--- The first thing I do is, when I get, when somebody calls me for some issues or sends me a message or telephones, I make the, the

initial enquiry with the, the staff, council staff and it comes back to know what the issues are. It's like, it's waiting or progressing or, or there's something wrong with the setbacks or whatever the situation is and I make a, I make the, a judgement based on the information I get back from the staff and at the same time, I look at, for example, if it's on Canterbury Road, I always have a, I've got my own vision in regards to Canterbury Road. I've always believed Canterbury Road is a badly neglected road that needed an uplift, and the only way you can get an uplift along Canterbury Road is to, to, to have some new buildings, new structures with some additional
10 activities there. So there's two things I look at, is the response I get from staff and what I believe, for example, if it's a shopping centre area, I, I have my, my vision and ideas in regards to that or main roads, I have also a position on that, yes.

So just answering my question, if you could, in relation to the evidence that you gave Counsel Assisting at the top of page 6930, should the Commission understand that to mean that you only assisted applicants and developers if you believed in the application that they were making based on material that you had seen, is that right?---Well, no, so, I mean probably part of it but
20 there was also that I do make representation on people and I, I gave an example the other day is, for example, where a person, look, because of, because I remember there was an issue where a person did commit suicide, I hate to say, and to me that changed my attitude in regards to, to looking at people differently. And if a person had an issue with the leaves of a tree falling in their front yard from a council tree, for example, to that person it's as big as somebody putting a major development. So I do honestly say that, yes, I do take everybody serious, everybody serious. Sometimes, even though they had no justification, like that neighbour who had, committed
30 suicide because of his, his, his neighbour had a small business where delivering things. So I, I stood, stood by that person in order to, just to give him assurance, knowing end of the day that, when he voted, voted to council, it, it had the majority support because it met the council controls.

Can I just go back, then, just to your evidence at the top of page 6930, in terms of going out of your way to help people if you believed in a particular application, I just want to break this up if I can. Is it the case that you believed in Mr Demian's company's application which is why you went out of your way to assist him?---No. With, Mr Demian had a lot of issues. It's not, it's not that, I do go out of my way because it, it is along Canterbury
40 Road, but he had a lot of issues in regards to his problems with the staff.

Of the council?---Of the council. And then we got involved in it because it just kept going back and forward, yep.

And Mr Faker's application, did you believe in his application?---Yes, I did. I, I did know the site very well. I used to walk past it quite often and it had no impact, no impact on any resident.

Did you say no or low impact?---No impact.

Thank you.---No, because it had a brick, a brick concrete face, wall in front of it which houses are higher than the building itself. It had no, no other residents and a river at the back and a main road on the main road and I said I had no problems with having it similar to the one next door. Yes, I - - -

10 THE COMMISSIONER: Sorry, can I just clarify, when Mr Moses asked you did you believe in Mr Faker's application, is that the one where he was pursuing 17 metres all over the site?---Yes, it's that one, yes.

For Homer Street.

MR MOSES: And Mr Maroun's, you believe in his application?---It's on Canterbury Road, yeah, Canterbury Road.

And the Chanine's application, you believed in that?---Which one is that? I'm just a bit confused.

20 The Doorsmart project.---Oh, the one on Canterbury Road, yes, that's, that's a, that's a ghetto there, yeah, yep.

Thank you. Just going to ask you some questions about Mr Demian now, if I can.---Yeah.

Mr Charlie Demian, he was a friend of yours?---Well, not a friend, he's just a person who I met through, through council, in regards to calling me for, to resolve and try to help resolve his issues, yeah.

30 You met with him, I think your evidence was, and talked to him regularly regarding properties that his company owned in Canterbury.---Yeah, he just started calling me, yes.

And I think you spoke to him about a potential introduction to Chinese buyers for his Harrison's site property, correct?---Well, further, further down the track, there was, people were calling me in regards to get access to him, and to meet up with him, and I gave him my contacts.

40 And there were two groups of potential Chinese buyers. The group, George's group, and the group that Mr Daryl Maguire wanted to introduce to Mr Demian, correct?---Correct (not transcribable) yes.

And you had communications with Mr Demian in relation to both of those groups?---Yeah, passed the information on.

And I'll just tell you what Mr Demian's evidence was, you're probably aware of this, page 2252 of the transcript, was that you would instigate contact with him to bring to him potential buyers for his sites in the

Canterbury area, including the Harrison's site.---I passed that information onto him from those people.

Yes. But he didn't ask you for assistance.---No, he didn't ask.

You're the one who brought it to him, correct?---No, he didn't, yeah, right, correct, he didn't ask, no.

So you agree with his evidence on that?---Yes. Yes.

10

And you came to him wanting to introduce buyers to him, correct?---Well, as I said, people have been asking me to catch up with him, and I connected them together, yeah.

Who were the people that asked you to catch up, to bring those positions to him?---Well, through John, this guy John, what's his name, oh, I can't - - -

Dabassis?---Laki, and Laki, and, and, and George. The three of them.

20

And at the time that you brought those representations to Mr Demian, were you acting in your capacity as a councillor?---I just, just knowing they're, look, knowing Charlie, knowing these other people, they just, I'd never thought about whether being acting as a councillor or not. I just said, "Look, I know the guy, I'll put you onto them, I'll put you onto him." That's basically what it was.

30

Well, you weren't acting on behalf of the residents and ratepayers of the council by trying to introduce Mr Demian to potential buyers for his sites, were you?---Well, George is a, is a ratepayer. He's our biggest ratepayer in Canterbury.

Are you seriously suggesting to the Commissioner that you regarded as part of your role as a councillor to introduce buyers to Mr Demian for a site that your council was deliberating over a development application on?---No, that - - -

40

Is that a serious suggestion, sir?---The application, there was an existing DA. It's an existing DA. It was already public, public knowledge. It was already publicised. It wasn't a, a, a private sale. And the people just wanted to meet up, and meet, they meet Charlie Demian. And I gave them the number and, to connect them together.

But wasn't the development application still before the council to be considered?---No, that was, that's all, it was all advertised.

All advertised, but - - -?---It was advertised, from, from memory.

What, there was no role further for you to deal with that matter on council?
---Well, I, I don't recall - - -

Is that what you're suggesting?---If, if I, if I had to, for example, if it did come up again, and I did some, some work with these guys on it, then, then I would have to declare interest in, in that case.

Do you accept that when you sought to introduce these potential groups to Mr Demian, you were acting not as a councillor, but in a personal capacity?
10 Do you accept that?---Well, I, I didn't even think about it as a - - -

You didn't think about it?---I didn't think about it. All I did, just pass information on.

You were seeking to profit from these introductions, weren't you?---No.

No? Okay.---Nah.

And what was in it for you to introduce these buyers to Mr Demian?
20 ---People ask me. Just, if someone asks me, I, I, I put them together.

And you thought that that was appropriate to do?---People have requested something. If I know someone, I have, I got your phone number through, through friends who know you as well, at one stage. So that's the way you ask the person something, or somebody gives you a contact. It doesn't mean anything.

And do you accept, sitting here today, that you should not have introduced buyers to Mr Demian as a councillor?---Look, based on what's happening,
30 my, I feel, on, based on what happened, I would do everything differently from, from the, from the position of what I have, because I did realise the repercussion in regards to not really seriously thinking about the issues and with this enquiry, as it made me think twice about activities of, of councillors.

THE COMMISSIONER: And, sorry, your answer there was only in respect of introducing buyers to Mr Demian as - - -?---No, no, even the way in total, if I had to do everything I would change completely my whole actions.

40 MR MOSES: Do you understand how bad it looks, the fact that as a councillor who had before the council applications pending concerning Mr Demian's properties, that you were bringing to him potential deals for the purchase of his sites whilst you had the power over applications pending before the council, do you know how bad that looks?---Look - - -

Do you accept that?---In hindsight, in hindsight I would have told him to bugger off, if I had that opportunity to do that, but the only problem that I have is, I do, I do say yes to people generally and it's, it's, I just look at it as

being rude to, to tell people to bugger off or, or say no to them, so I just look at it that way. That's the way I am.

I'm going to ask you some questions about Mr Maguire. You recall that you were played a recording of two telephone calls with Mr Maguire - - -?

---Correct.

- - - that took place on 9 May, 2016. Correct?---Yep.

10 You gave evidence that you respected Mr Maguire?---Yes.

That you were aware that he was a member of parliament?---Yes.

And that you regarded him as a nice guy?---He's a nice guy, yes.

And in preparing for your evidence in these proceedings, were you shown a copy of Mr Maguire's evidence about his understanding of the content of the telephone calls between you and he on 9 May?

20 MR DREWETT: I object to that question.

MR MOSES: I withdraw the question. I'll go directly to the point. Commissioner, can I ask that Exhibit 136 and 137 be played to the witness? I just want to remind the witness because it's been some time in relation to those calls, whether they could be played. I want to ask some questions then after that.

THE COMMISSIONER: Do you have any problem with – sorry.

30 MR MOSES: I'm sorry, Commissioner.

THE COMMISSIONER: Do you want Mr Hawatt to have the transcript in
- - -

MR MOSES: If he could as well, but I would like the telephone calls to actually be played, because it's probably better that they be played as well.

THE COMMISSIONER: No, that's fine, it's whether Natasha has to get the Exhibits 136 and 137 out.

40

MR MOSES: Commissioner, can I perhaps resume my seat?

THE COMMISSIONER: Yes.

MR MOSES: Thank you.

AUDIO RECORDING PLAYED

[4.03pm]

MR MOSES: Commissioner, just before the second recording is played, I just want to ask the witness some questions about that recording whilst it's fresh in his mind.

MR BUCHANAN: Can we just place on the record, that was Exhibit 136.

THE COMMISSIONER: 136, yes.

10

MR MOSES: Yes, thank my learned friend. The question was asked of you by Mr Maguire as to what you had on your books. Do you recall that in the telephone intercept?---Yeah.

You do?---He said that, yes.

Let's be clear about it, you're not a real estate agent, correct?---No, I'm not. I don't know what he said, I, I have no control of what he said.

20

No, no, but you're not a real estate agent, correct, just to be clear?---No. I'm a finance broker.

And the reference to what was on your books, that was a reference to what Canterbury Council had before it in relation to the development applications, correct?---No, no. Just what, what you, what, what he's saying, what's on your books is not what's on your books as a real estate agent, it's what you have that you know of in regards to DA, DA approved sites.

30

In your area?---Yeah, in my area, yes. That's what he's asking.

Yes, so information that you have - - -?---Well, not just, sorry, not in the area, he's talking about anywhere.

Anywhere?---Yeah.

40

Had Mr Maguire called you before 9 May to ascertain similar information from you?---I, I don't recall. I met him in China and he just introduced me to his people, he said he was setting up some chamber of commerce or something, I don't know, for, to link people together, I don't know. I, I don't recall. I mean that, he seems to be asking be on that phone discussion, so it sounds like it's new to me because - - -

And in relation to one of the sites that you mentioned, it was the Harrison site?---Correct because that was the one that John and Laki were, that's why I was aware of it because John and Laki were hounding me on that one.

In terms of approaching Mr Demian?---Yep.

Thank you. If the witness could then have played to him Exhibit 137, please.

AUDIO RECORDING PLAYED

[4.17pm]

10 MR MOSES: Mr Hawatt, just in relation to that telephone conversation, at page 3 you mentioned to Mr Demian, I withdraw that, Mr Maguire, that there were "some in the system ready for approval." Do you see that, it's the fourth entry on the page?---Yeah.

Yes. You were referring in there, weren't you, to the application that was still pending before Canterbury Council in relation to the modification of the internal layout and building separation at the Harrison's site, weren't you, that was still in the system?---No, no, there was, no, that was already approved. He's talking about, he's after DA - - -

20 No, what, I'm asking about your words, don't worry about him.---Yeah, what he's after, DA (not transcribable)

No, no, no, no, listen, look at your words.

MR DREWETT: Well, I object to that.

30 THE COMMISSIONER: No, no, no, no. Mr Drewett, I think Mr Hawatt has misunderstood it. Mr Moses is referring Mr Hawatt to his words, you've got DA approved, you've got "some in the system ready for approval," and we're looking at what is referred to as "some in the system," and I think Mr Moses is putting a particular property - - -?---To do with Parramatta.

- - - to Mr Hawatt.

MR MOSES: I am.

40 MR DREWETT: I think he was, but I was interested to see if my client was answering the question before he was told no. I'm not sure if he was, and perhaps my friend heard a different answer, but I only heard a couple of words and he was cut off, so - - -

MR MOSES: Well, can I put it this way and Mr Hawatt can correct me. You're the one who's saying you've got "some in the system ready for approval." They're your word?---This is from, this is from Charlie regarding Parramatta sites.

Parramatta, not Canterbury?---No.

Do you accept that on 9 May, 2016, there was still an application pending before Canterbury Council in relation to the Harrison's site?---Well, on 9 May, this is to me a few days before the sacking of the council, let me finish, and if, if I did do any transaction as a finance broker with Daryl, then if it did come to council I would have to declare interest.

10 So I'm going to ask you the question, on 9 May, 2016, do you accept that there was still a pending development application concerning the Harrison's site before the council?---I don't, I don't recall that one.

Okay. And can I just then ask the witness be shown transcript 2357, which was Mr Maguire's evidence about these telephone calls. And you accept on 9 May you were still a councillor, correct?---Yeah, this is a Clayton's councillor, yeah.

I'm not sure what you mean by that, but you were a councillor who owed statutory duties to the ratepayers and residents of the Canterbury Council. ---Yeah, we had no more meetings and no more discussions.

20

Do you accept that you were still a councillor on 9 May?---Yes, I was councillor, yeah.

Okay. Thank you. Now, if you go to about line 23 on the page, it starts with, "Now, going over the page to page 3 of the transcript," a bit over halfway down, you said, "Okay. All right. Well, this would be very worthwhile for us." Mr Hawatt said, "I think so, yeah." You said, "He's got to do three per cent." So Mr Hawatt said, "He's willing, he's willing to work, to work on that, to help us out with that, with that is all well." You said, "Yeah, that's exactly right. All right. Beautiful, unless, unless, well, I guess once introduction's made we could, we could probably come to some arrangement." And Mr Buchanan asked the question, "That is all the conversation, isn't it, about commissions, correct, commissions that would flow to you and to Mr Hawatt, correct, and so it is fair to say at this stage you saw this as a money-making exercise to the benefit of you and Mr Hawatt?" Answer, "I believe so." Do you see that, sir?---Yeah.

30

And you agree, don't you, with Mr Maguire's evidence about his understanding of that arrangement, don't you?---Look, I can't speak on behalf of Mr Maguire, how he thinks.

40

Okay.---I mean when he says in the books it doesn't mean I've got the books. I mean Daryl speaks in a, in a different way, he thinks differently and he says things with a, with a different meaning.

So you don't accept - - -?---Sometimes it's hard for me to judge what he's saying.

Is that because you've been caught out?---Oh, not because I caught out. I, I don't, I don't believe I got caught out in anything, because I believe whatever I did, it, it, it wasn't with any bad intent. It was purely to, to represent and support people and, and, and, and assist people in, in their request for getting contacts and, and, and meeting others and, and I've done that, I've always done that.

10 Represent and support people to make millions of dollars whilst their development applications were pending before a council that you had to exercise statutory duties on. Correct, sir?---I've, I, I've never taken money into consideration whenever I connect people together.

Thank you. Just going to page 2349, it's the top, reading from the bottom of page 17, it's just about line 5, you were talking about the percentage that Mr Hawatt might derive for what reason, how would he get a percentage for what. Answer, "He would have been an agent of some description for the vendor, I suspect, yes, for the owner, yes." So we go over to the top of page 18 in the transcript, you said, "So he needs to that, because 1, 1.5 per cent isn't a nought divided by two, if you know what I'm talking about." "What
20 were you talking about?" "Well, it appears that I'm talking about a dividend." "A dividend, what do you mean by that?" "A dividend to be shared by two." "Who would the two have been?" "Well, you'd have to assume, you'd have to assume about an interested party or interested person, yes, sharing with Mr Hawatt, yes." Now, do you agree with Mr Maguire's evidence?---No. Look, I don't agree because it's his, his opinion in regards to, it wasn't, it wasn't, nothing specific in regards to how, who, who his party was. I mean, there was talk, general discussion which I, I always take lightly and it's in his opinion, that's, that's his judgement on that, it's not
30 mine.

Do you accept you should even have been having these discussions as a councillor concerning a person whose property was the subject of deliberations before council? Do you accept that?---Yeah, shouldn't, yes correct.

Thank you.---And it's something that I, I look differently at, at it now.

Thank you. Commissioner, I note the time.

40 THE COMMISSIONER: All right. Now, tomorrow, we're not going to commence until 12 o'clock, but on the basis that when Mr Moses finishes, unless Mr Vasil's representatives come back, we're straight on to you, Mr Andronos.

MR ANDRONOS: Ready to go.

THE COMMISSIONER: Excellent.

MR ANDRONOS: Not a Tesla like my friend.

MR MOSES: Maserati.

MR ANDRONOS: (not transcribable) prone to breaking down.

THE COMMISSIONER: All right. We adjourn until 12 o'clock tomorrow.

MR MOSES: We all are.

10

THE WITNESS STOOD DOWN **[4.30pm]**

AT 4.30PM THE MATTER WAS ADJOURNED ACCORDINGLY
[4.30pm]