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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 WEDNESDAY 17 OCTOBER, 2018

AT 9.30AM

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

THE COMMISSIONER: Thank you.

MR BUCHANAN: No administrative matters.

THE COMMISSIONER: Right, Mr Stavis.

MR BUCHANAN: Mr Stavis, could the witness please be shown volume 13, page 154. The only reason I'm asking that you have a look at this is just so that you can understand the context in which you're being asked a question and gave a particular answer, and do you see at the bottom of page 154 an email from Matt Daniel on 26 October, 2015 to you, saying, "Please see attached"? And the attached when you go over the page was the second
10 submission that you received, this time if you go to page 157, seeking in respect of 998 Punchbowl Road a maximum FSR of 2.8:1. Do you see that?---Yes, sir.

Thank you. Can I take the witness then to page transcript 4631, line 40. You were asked by Mr Andronos, "Now, when you received that email, you had not participated in any meetings with Mr Montague and Mr Demian relevant to 998 Punchbowl Road since June, that's correct, isn't it?" Answer, "No, I used to keep Mr Montague quite regularly updated on anything to do with Mr Demian, whether it involved me going up and
20 seeing him direct or on the phone whenever there were, and I learned that pretty fast just by virtue of the nature of Charlie Demian's, the way he was." Could you just give us a little bit more information about that, please, as to why you kept Mr Montague updated because it involved Mr Demian? ---Because he, Mr Demian kept making representations to Mr Montague and Mr Montague, sorry, and Mr Montague would relay those recommendations or, sorry, those communications with me. So, I thought it would be prudent to make sure that Mr Montague was kept in the loop.

Thank you. Page 1456, I'm sorry that cannot be right, 4656 of the
30 transcript.---Yes.

Starting at line 43, question, "And you kept Mr Montague informed but in a different way because he was more concerned just with making sure progress was taking place." Answer, "I tended to confide in him a bit more than that but generally, yes." Question, "When you say confide, is that the, that suggests, doesn't it, that you had problems and you were looking to him for assistance?" Answer, "Yes." Page 4657, "Were these, tell us what these problems were?" Answer, "Problems in relation to applicants. For example, particularly applicants that he had dealings with in the past.
40 Problems in relation to some councillors, generally they're the two, yeah." Question, "He was a source of support for you?" Answer, "Yes. I, yes, yes, yes." Question, "And he was sympathetic to the difficulties you had told him you were facing?" "Yes, sir. Yes." Did you have any indication from Mr Montague that he would take your concerns up with the applicants or with the councillors about whom you had concerns? Do you understand what I'm asking?---Yeah, yeah.

Did you get an indication from Mr Montague as to what he would do, if anything in response to the concerns you took to him?---Not that I can recall.

Excuse me a moment. Just for context, I need to take you to 4662, line 5 just towards the end of that line, “So, at some time prior to the 13th, is this a correct inference, you had a meeting with Charlie Demian. At the outcome of that meeting are these points, numbered 1 to 4 that you set out in your email to Mr Harding on the 13th?” Answer, “Yes.” And then Mr Andronos took you through these points, you might recall this email. Question, “Now, let’s look at these points, ‘Stewart, after long deliberation, he agreed to do the following. Point 1. Delete eight units from the top two floors along the Canterbury Road frontage.’ Do you recall that?” Answer, “Yes.” “2. Give council at least two units that should be leased by council to a community housing provider to provide public benefit.’ Do you recall that?” Answer, “Yes.” Question, “‘Substantially upgrade the materials and finishes of the whole building to improve the quality of the development’s appearance.’” Question, “Do you recall that?” Answer, “Yes, sir.” Question 4, “‘4. Make improvements to the units within the development where possible to accord more with SEPP 65.’” Question, “Yes?” Answer, “Yes.” Can I take you then to, I think I need to take you to the actual document. I’m sorry, I thought we might be able to skip it but we can’t. Volume 21, page 98. Do you see that email to Stuart Harding of 13 August, 2015?---Yes, sir.

And you can see above the four points you wrote, “After long deliberation he agreed to do the following.” In short are you saying that Mr Demian agreed to the solution the four aspects of which were set out below?---Yes, sir.

30 And that solution involved a partial redesign?---Yes, sir.

Now, at page 4663 point 9 of the transcript you were asked, “And so you actually achieved a public benefit in relation to those four points?” Answer, “At the time, yes.” Question, “At that time, yes, at that time. Now, this is solutions-oriented planning at work, isn’t it?” Answer, “I believe so.” Question. “Yes. Where you’re able to look for a creative solution that advanced the public benefit at the property developer’s expense?” Answer, “Yes.” You were in fact redesigning the proposed development for the applicant, weren’t you?---No. It was a combination of give and take between both parties, to be perfectly honest with you.

Yes, but it was with a view to the applicant lodging amended plans?---Yes, sir.

And those amended plans would reflect your four points as agreed?---Yes, sir.

And you would then approve it in essence or draft an officer's report recommending that the DA with those plans be approved?---Provided it was done in accordance with what we had agreed. Obviously there would have needed to be more of a review of those amended plans.

And so plainly you had a conflict of interest in redesigning the plans which you would then recommend be approved, didn't you?---I didn't, I didn't redesign it, sir.

10 And you were doing so in a way which you knew would advantage Mr Demian, that is to say he would get his DA approved?---I, I - - -

Correct?---It would get his DA approved, yes.

That would be an advantage to him, wouldn't it?---I think it was an advantage to both. If it was approved with those four points it would have been more an advantage for both the public and also for, for him obviously.

20 Were you providing an apparent public benefit cover so that significantly non-complying development could be approved and withstand, in your view, public scrutiny?---No, sir.

Page 4688 of the transcript.---I don't have 4688 here.

THE COMMISSIONER: We'll get you the folder.

30 MR BUCHANAN: I'm sorry. We'll bring it up onto the screen for you. I'm sorry, I just need to check that I've got the right reference. Excuse me a moment. Sorry, it's my writing for which I have to apologise to everybody not being able to read, not being able to write legibly. Page 4668, Mr Stavis, and you recall the language in an email that you wrote "ordinarily I would have refused this DA".---Yes, sir.

Do you recall that?---I do, yes.

And you were asked – I'm sorry, if we can just go to page, do you see line 10 on page 4668 on the screen?---Yes, sir, I can see it.

40 And you were asked, "And that's because you knew there was an issue for Mr Montague but not necessarily an issue for Mr Hawatt?" Answer. "Yes." And this is, you remember you were being asked about a discrepancy in language in the two emails to those different people about the same subject?---Yes.

You said, "Yes." Question. "Now, you then go on to express things in different terms. You say, 'Ordinarily I would have refused this DA a long time ago.' Now, you don't say that to Mr Montague. Correct?" Answer.

“I don’t say it in writing, no, but I, I do - - -”. Question. “No, I’m asking you about the emails.” Answer. “No, sorry, yes.” Can I ask you - - -?
---Sure.

- - - did you convey that to Mr Montague in a way other than emails?
---Yeah, conversation.

10 And can you tell us about that conversation, please?---I just, it was in a conversation where I expressed Mr Demian’s non-cooperation and attitude and just blatant disregard for issues that had been discussed previously and agreed to by him, and that process had gone on for some time I recall, and I, in the conversation with Mr Montague I did say to him, look, you know, ordinarily with people like this I would have just refused it.

Excuse me a moment. Can I take you to an Exhibit 213. It’s a transcript of a telephone conversation. You were asked about this telephone conversation with Mr Hawatt that took place on 23 March, 2016 commencing at 8.06pm. And the transcription records, if I can ask you to go over to page 2, you start to talk about a development that I think we agree is 570 Canterbury Road. Do you see there that, “On the corner of, next to Harrison’s”?---Yes, sir.

20 You go on to say, “Because basically the understanding was that before he lodged, we all agreed that he had to do something to the approval, like Jimmy Maroun did.” Page 3, “To give something back and to argue the extra two floors on the basis that it’s a better planning outcome.” You went on to say, “Under clause 4.6, okay.” You went on to say, “So we just, I think we just want to run that by you and I think he wants to see what you think, okay, because he’s a bit, he’s a bit sort of wary of it.” Hawatt asked, “What, so Montague’s wary of it or - - -” You said, “Well, yeah, he’s, he wants to, he’s, I told him I can’t support it.” Hawatt said, “Oh, I’m not sure he will”, and then something inaudible. And then you said, “I told him I can’t support it and he wants to back me but he’s, he’s, he’s afraid that, you know, he might cause offence.” So, that exchange or communication by you to Mr Hawatt that I want to take you to in the evidence that you gave in answer to questions from Mr Andronos. If you go to transcript page 4672 and from line 5, over to page 4673, line 8, you were taken by Mr Andronos to this conversation. Do you see that? If you just read it to yourself?--- Yes, sir.

40 All I want to ask you about is the words that are attributed to you on page 3 of the transcript of Exhibit 213 at about point 7, where you said, “I told him I can’t support it.” That’s you saying to Mr Hawatt, “I told Mr Montague I can’t support it,” isn’t it?---Yes, sir.

“And he”, Mr Montague, “wants to back me but he’s, he’s afraid that, you know, he might cause offence.” What you were conveying there, wasn’t it, was your understanding of Mr Montague’s attitude to your proposed action

in respect of the application, namely that Mr Montague was afraid that he might cause offence to Mr Demian?---Correct.

If I can ask that we go to volume 9, page 96 of Exhibit 52. Page 4682 of the transcript. So, sorry, sorry, first of all just have you taken in that communication to you on 6 March, 2015 from Councillor Vasiliades?
---Yes, sir.

10 And your response at the top of the page, this is on 6 March, 2015?---Yes, sir.

That's what you were being asked about by Mr Andronos, page 4682, about line 21 of the transcript.---Yes, sir.

20 Can you see at line 21 Mr Andronos asked, "Do you recall any other communications from anyone about this site prior to receiving this email?" Answer, "As I sit here today, no." Question, "No. It's likely, isn't it, that as a result of this email in accordance," sorry, "and in accordance with the requests in the paragraph I just read to you, you then approached the general manager to discuss this site?" Answer, "It's possible, sir, yes, it is." Question, "Is it likely in your view that the first communication you had with the general manager in relation to this site followed after this email?" Answer, "I think that's likely, yes." My question to you is, do you have a recollection of doing any research into the issues that Mr Vasiliades raised with you in his email?---No.

Do you have a recollection of any contact with Mr Montague in relation to the issues that Mr Vasiliades raised in his email?---No, sir.

30 Now, I just want to focus specifically on the particular issue that Mr Vasiliades raised that there had been an attempt back in February 2015 to amend the resolution asking that a planning proposal be prepared to clarify the intent or meaning of the resolution so far as concerned the amendment to the building height limit. So thinking of that in particular, do you remember having a conversation with the general manager about what's this about an attempt to amend a resolution?---No, sir.

40 Did you have access to the minutes of the meetings of council?---We would have, yes, I would have, yes, at some point, yes.

Do you know whether you ever went back to have a look and see what it was that had apparently, or that Mr Vasiliades was referring to that had previously occurred?---I vaguely remember there being some issue about trying to clarify whether there was going to be a step floor in terms of height
- - -

Yes?--- - - - versus what was ultimately resolved I think, which was a blanket height over it.

Yes.---I remember reading that at some point in time, yes.

And obviously you would have seen, you would have read the officer's report - - -?---Yes.

- - - which recommended from recollection an increase of building height limit to 14 metres?---Yes.

10 But do you have a recollection of trying to research what if anything had been intended by the resolution seeking an apparently blanket 17-metre building height limit increase?---No. The only information that I remember reading was there was a document on file, best as I can recall, that had that, the words that basically described the stepping floor down.

Yes.---So I remember reading that and then I obviously remember reading the resolution that ultimately was adopted.

20 Can I take you please to, well, in the first instance Exhibit 233, which is a schedule of call charge records.---Is that volume, sorry, is that, oh.

Well, whilst you've got the transcript in front of you, sir, if you have it in that folder, 4689.---Yes. Thank you.

And at line 28.---Yes.

30 Mr Neil put to you, "That from 2 or 3 February, you had no need for any assistance of Mr Vasil because you had been confirmed in the job, do you agree?" Answer, "Look, it's probably a fair comment, yes".---Yes, sir.

Do you recall that?---Yes, sir.

If you have got Exhibit 233 in front of you.---Yes.

You can just peruse it yourself if you have the paper copy, it's probably easier.---Yep.

40 But can you see that after 3 February, 2015, there are numerous contacts between you and Mr Vasil, including contacts initiated by you, all the way through to the last entry on the last page, 28 February, 2015?---Yes, sir.

So if you had no need for any assistance from Mr Vasil, why did you contact Mr Vasil as frequently as you did after 3 February, 2015?---I'm not sure to be honest with you, sir.

It's because, isn't it, he was providing you with assistance and you knew he was a source of assistance by way of intelligence as to what was going on?

MR NEIL: I object. If you just specify what was going on about what or in what respect. We've already had the line of questioning from my learned friend to Mr Stavis designed to establish that Mr Stavis most likely knew on the night of 2 February that he had the job, so it can't be about that. So whatever it is that is going to be put, my learned friend should put it. What was going on about what? It has to be something else. He ought to put what he says it is.

10 MR BUCHANAN: Commissioner, I can rephrase the question. You know what was going on at this time, don't you?---I think it was them, I guess, the argy-bargy between the general manager and, and the councillors, yes.

And the finalisation as to at the very least, when you could expect to start work?---Yes.

That was what you were contacting Mr Vasil about. You understood he was, you had experience that he was a source of intelligence about those subjects to the extent that he was able to provide it to you?---I think that's a fair comment.

20

Now, Commissioner, up to a point the next aspect of this re-examination opens a fresh topic that I should have covered in my examination-in-chief of the witness. It's the question of contacts between the witness and Mr Azzi and I seek your leave to canvass a few matters. I suspect that, well – no, I withdraw that. My application would be that leave be granted, and that if it is considered necessary for particularly Mr Pararajasingham to take any of the matters further, then that application can be made and considered on its merits.

30 THE COMMISSIONER: And I think I would also include Mr Pullinger in that as well.

MR BUCHANAN: Oh, yes. Definitely.

THE COMMISSIONER: And also - - -

MR BUCHANAN: Possibly Mr Andronos but I'm not actually going to be asking about his client.

40 THE COMMISSIONER: I am minded to grant leave on the basis that it would appear those who may be affected would be Mr Pararajasingham and Mr Pullinger, but obviously everybody else depending on what answers come out. Does anybody want to be heard against me granting leave?

MS ALDERSON: No, Commissioner.

THE COMMISSIONER: Thank you.

MR PARARAJASINGHAM: No, Commissioner. Commissioner, all I'll note is we are now into kind of the early twenties days in the witness box.

THE COMMISSIONER: I know.

MR PARARAJASINGHAM: I just note that.

MR PULLINGER: May I just inquire as to the extent of the leave that Counsel Assisting is asking for?

10

MR BUCHANAN: The topic is contact between this witness and Mr Azzi at a particular period in time.

MR PULLINGER: At any particular stage or just - - -

MR BUCHANAN: Yes, yes. In particular after amalgamation. That is to say, after 12 May, 2016.

MR PULLINGER: Thank you.

20

THE COMMISSIONER: So it's pretty narrow.

MR BUCHANAN: Yes.

THE COMMISSIONER: All right. I'm going to grant leave and then after this aspect of this topic has been finished by Mr Buchanan, if anybody wants to ask questions we can determine whether we need to pursue it.

MR BUCHANAN: After amalgamation, Mr Stavis, did you go to Mr Azzi's house?---That I can't recall, to be honest with you.

30

Can I ask you to think about it another way.---Sure.

Are you able to think of the last time that you were at Mr Azzi's house?
---Oh, it was, it was around about that period of time when amalgamations were about to happen or, or so forth, yes.

Is it possible that you met – sorry, is it possible that you went to Mr Azzi's house after amalgamation?---I can't be a hundred per cent sure, but as I say, if it's around about that time then, yes, it's possible.

40

You've told us about face-to-face meetings you had with Mr Hawatt after amalgamation.---Yes, sir.

Did you have any face-to-face meetings with Mr Azzi after amalgamation?
---I, I don't recall exactly but I, it is likely that those face-to-face meetings that involved Mr Hawatt also involved Mr Azzi.

Well, I'm not - - -?---I just can't remember.

I'm not suggesting that's wrong but I'd just like you to consider something.
---Sure.

10 What we have got is evidence of you meeting Mr Hawatt both at council, that is to say in council chambers, but also away from council with no suggestion in any of that evidence that Mr Azzi was present or was to be present and as well we had the evidence of certainly one conversation where you and Mr Hawatt discuss the infelicity, the un-wisdom of the way Mr Azzi was approaching his contacts with Mr Stewart compared with the way Mr Hawatt was approaching his contacts with Mr Stewart. Do you recall that conversation?---I do, yes, yes.

20 And so they're just two things which don't support any assumption on your part or speculation on your part that you were meeting, when you were meeting with Mr Hawatt you were also meeting with Mr Azzi after amalgamation. I just what to put that to you and invite you to respond.---I can't be sure that I met Mr Azzi after amalgamation as I sit here today.

That's a different question. There's two different things. One is meeting Mr Azzi after amalgamation, but the other is, if you met him after amalgamation, sorry, knowing that you met Mr Hawatt after amalgamation, whether Mr Azzi was with Mr Hawatt on any of those occasions. So they're two different things.---Sure. I believe so, yes.

30 Believe what?---I believe that Mr Azzi would have been or was present at the meetings that I had with Mr Hawatt or meeting that I had with Mr Hawatt after amalgamation.

Excuse me a moment. You remember that – I'm not expecting you to remember the exact date or necessarily the name of it, but do you recall that there was a meeting which I want to suggest you had with Mr Hawatt on 20 May, 2016 that started early in the afternoon at a coffee shop in Campsie called the Coffee Story, S-t-o-r-y, which was at 43 North Parade, Campsie?
---Yes, sir, I remember that.

40 And I think you told us that you remembered that and it's possible that on another occasion you went back to the same place to have a meeting with Mr Hawatt?---Possible, yes.

I want to suggest that on 20 May, 2016 it was only Mr Hawatt that you met, not Mr Azzi.---That is correct.

Thank you.---I remember that.

So after amalgamation did you have telephone conversations with Mr Azzi?
---That I can't recall.

After amalgamation did you have any face-to-face meeting with Mr Azzi at council chambers?---I don't believe so.

10 You know we've taken you to a number of conversations with Mr Hawatt in May and June of 2016, Exhibits 224 page 4, 226 pages 7 to 8, 287, pages 10 to 14, 228, page 6, in which you and Mr Hawatt spoke to each other in a way that I've characterised, and I accept that you reject this, conspiratorially, that is to say, you used language indicating that your relationship would continue as usual, business as usual, but that no one was to know about the contacts you were having.---I remember that.

Did you have any conversation like that with Mr Azzi?---Not that I can recall.

Did you have any conversation with Mr Azzi as to what effect amalgamation would have or what effect him no longer being a councillor would have on the extent of your communication with him and his communication with you? ---Not that I can recall.

20 Can you assist us as to why you had the degree of communication with Mr Hawatt that you did after amalgamation but apparently not, at least not as frequently with Mr Azzi? Was there anything that was said or any reason you can give us?---The only reason was that was, it was common practice that communication was always with, more so with Mr Hawatt than it was with Mr Azzi, and primarily the reason was because they always used to hang out together I guess and, yeah, so that would be the main reason why.

30 THE COMMISSIONER: Sorry, are you saying that when they were councillors, your experience was that most of the contact was with Mr Hawatt and that seemed to continue post-amalgamation?---Yes.

MR BUCHANAN: In 2016, at the time amalgamation occurred, there were applications still on foot in respect of proposed developments by the Chanines, 212 to effectively 222 Canterbury Road, correct?---I believe so, yes.

And your division was doing work on those two DAs in 2016 after amalgamation?---I believe so, yes.

40 That was a proposed development in which Mr Azzi had a number of dealings with you?---Yes, yes.

Including the famous telephone call to fix it.---Yes, sir.

Did Mr Azzi have any contact with you after amalgamation about that proposed development, those two DAs?---I don't recall if he did but I think it's likely that he did.

And why do you think it's likely?---Because he was communicating to me in a sense that, sorry, he took an interest in this application long before amalgamation and I believe he would have at least made some enquiries about it post-amalgamation of the – but as far as specific conversations or anything like that, I don't really recall that.

Then in respect of 570-580 Canterbury Road, that was Mr Demian's proposed development.---Yes, sir.

10 And at the time of amalgamation, DA 510 of 205 was on foot. That was for the extra two storeys on the approved development at 570-580 Canterbury Road?---Yes, sir.

And Mr Azzi had, tell me if I'm wrong, been in contact with you about that DA, along with the other DAs in relation to 570?---Yes.

Had he any contact with you after amalgamation in relation to those DAs, or that DA?---Look, to be honest with you I don't recall if he did. Again, I qualify that answer by saying that it's likely that he would have made some enquiries given the history of the enquiries he had pre-amalgamation of those particular sites, but I just can't recall any specifically conversation or -
20
- -

Can I ask that we go to transcript page, excuse me a moment, 4754. And do you remember that you were asked, this is at the bottom of page 4753, the general approach, call it philosophical, ideological, whatever, towards development by the urban planning and development assessment team, you said, "Conservative, if I had to put a word to it." Question, "And when you say conservative, what does that mean in a planning context?" Answer,
30 "Rigid." Question, "Rigid how?" Answer, "Insisting on almost like a checklist approach to planning, insisting on compliance." Question, "Compliance with what?" Answer, "Development Control Plans." Question, "So are you referring to strict compliance with controls?" Answer, "Yes, sir." And this is the questions I want to, the exchange I want to ask you about. Question, "And what is the effect of strict compliance with controls?" Answer, "It, it does not allow flexibility to consider sites on merit." And my first question is, what did you mean by "merit" in that answer?---Can I be taken to where it is, is that - - -

40 Sorry?---Sorry, can I be taken to what you read?

THE COMMISSIONER: Have you - - -?---I've got - - -

Have you got - - -

MR BUCHANAN: You don't have it. I do apologise.---I'm sorry, I've got 4754 I believe you said?

Yes, that's right.

THE COMMISSIONER: I think it might have started the page before.
---Okay.

If you go right down the bottom.---Yep.

Can you see the question about the philosophical, ideological whatever
towards development?---Yes, yes, yes.

10

And then the next page follows on.

MR BUCHANAN: You said, "Conservative." And then - - -?---Yes, I
understand now. Yes, sir, okay. Sorry, can you ask the question?

What do you mean by "merit," in the answer that strict compliance with
controls does not allow flexibility to consider sites on merit?---Because
every site is different and the way the Development Control Plan was
structured at Canterbury was almost like a sort of a one-size-fits-all-type
document, which meant that if you, there would be sites where if you
insisted on strict compliance it would I guess negate the orderly and
economic development of the land.

20

And so do you say that the answer you were giving there was in
contemplation of controls in the Development Control Plan, not controls in
the planning instruments comprising the LEP and SEPP 65?---I think that
was in reference to the DCP.

30

I'm sorry?---That was in reference I believe to the Development Control
Plan.

Right. And then let's go back then to the question Mr Pararajasingham
asked you at the bottom of page 4753. He asked you about what your
understanding was of the general approach towards development by the
urban planning and development assessment team, "Conservative, if I had to
put a word to it." Now, were you thinking when you gave that answer only
about Development Control Plan controls or were you thinking about all
controls?---Pretty much all controls, yeah.

40

Right. We'll go over the page, "And when you say conservative, what does
that mean in a planning context?" Answer, "Rigid." Were you again
thinking of all controls in that answer?---Yes, sir.

Question, "Rigid how?" Answer, "Insisting on almost a checklist approach
to planning and insisting on compliance." Were you thinking of all controls
when you gave that answer?---Probably, yes.

Well, it couldn't have been, could it, because the next question was, "Compliance with what?" And you said, "Development Control Plans." ---Oh, sorry, sorry, I just read it. Yes, so it's, yeah, so it's, I was referencing Development Control Plans.

Well, let's go back then to Mr Pararajasingham's question. He started that by asking what was your understanding before you started in March 2015 of the general approach, call it philosophical, ideological whatever, towards development by the urban planning and development assessment team. You told us conservative. In respect of the controls imposed by the LEP and SEPP 65 where applicable?---Not only those, all planning controls.

All planning controls. And you gave an analogue of rigid to the word conservative.---Yes, sir.

Now, are you saying that the staff as you understood it when you started in March of 2015 insisted on almost a checklist approach to planning, insisting on compliance in respect also of controls under the LEP and SEPP 65? ---Before I started?

Yes, that's what you were asked.---Yes.

You do?---Yes.

So you extend that then to compliance with the LEP and SEPP 65?---I do.

And you were essentially deploring an almost, like a checklist approach to planning controls in the LEP and SEPP 65 insisting on compliance. You were thinking that was a bad thing.---Not a bad thing but not a, a solution-driven approach as far as I'm concerned.

And so you thought that strict compliance with controls under the LEP and SEPP 65 was not a good thing?---Well, by virtue of the fact that there is clause 4.6 that allows you to vary a development standard in the LEP would suggest that you can vary a development standard in circumstances.

But you did understand, didn't you, no matter what the ins and outs of it might have been, that there were limits that were contemplated by clause 4.6 to the variations that could be tolerated, didn't you?---Not limits in terms of the extent of the variation. The limitations you're bound by under the clause 4.6 provisions themselves, yes.

Now, you thought, did you, that strict compliance with the controls of the LEP and SEPP 65 did not allow flexibility to consider sites on merit. Is that what you're saying?---Not, not in all cases, no. That's not case. It's not a

Any case?---Yes, there is, there would have been cases where constraints or topography of the land was such that you couldn't strictly adhere to those planning instruments, yeah.

Excuse me a moment. Can I take you to transcript page 4557.---Yes, sir.

Now, please feel free to read from the top of the page, 4557, but what I'd like to take you to, if we could start perhaps at about line 16. "Now, I think you already told us your view of the numerical application of planning controls and you told us that that's not in your view a conclusive measure?"
10 "Correct." "A question of whether or not a particular development is good or not and you've given evidence already on the occasion at Liverpool Road, Strathfield, where you as a council planner were able to come up with a solution which in your view improved the design of the building?" "Yes."
"Enhance the amenity of neighbours?" Answer. "Yes." Question. "Over and above what it would have been had a design which is otherwise compliant gone onto the site?" Answer. "That's correct." "But in so doing exceeded the height limit permissible in that locality?" "In part, yes."
Question. "In part. And so in doing that what you had done, and correct me
20 if this is not the way to express it, you had employed a creative solution to a problem which was trying to balance the interests of stakeholders?"
Answer. "That's, that's exactly right." Question. "And when you talk about creative solutions and solutions oriented, am I correct in understanding that that's what you mean?" Answer. "Yes." Question. "And when you and other people in the council environment including Mr Montague ever discuss solutions-oriented planning this is what you're referring to?" Answer. "Correct." Question. "And this is what you understand Mr Montague is referring to?" Answer. "Correct." Question. "And when you described yourself as a solutions kind of guy this is what
30 you meant?" "That's exactly right, yes." So what all of that comes down to is that you were employing – looking at line 36 on page 4557 – a creative solution to a problem or applying or devising a creative solution to a problem which was trying to balance the interests of stakeholders. Is that right?---Sorry, was that a question, sorry?

Yes. And you said, "That's exactly right." You adhere to that evidence, do you?---I believe so, yes.

I apologise if I'm covering ground which I touched upon yesterday, but there
40 is no reference in your explanation there of how you saw your job to applying legal standards or criteria in the Environment Planning and Assessment Act, including the LEP or SEPP 65, is there?---There was no, sorry, can you put that to me again?

No reference, no mention of applying the legal standards and criteria set out in the EP and A Act, including SEPP 65 and the LEP.---In the transcript?

In your answer, in your approach as you explained it and you said is exactly right. Instead it's an approach of balancing the interests of stakeholders, correct?---I, I, it is correct but I, I don't think it was asked of me. It was the way that the questions were framed, probably didn't allow me to elaborate.

10 See, I want to, it didn't even occur to you to answer Mr Andronos's question as being, well, you know, given, of course we have to apply the legal standards, that's what we're doing. You know, 79C et cetera, et cetera. You didn't say that to Mr Andronos. You didn't say, oh, look, the first starting point is the Act, did you? Instead, you saw your task, your focus as being the balancing of the interests of stakeholders. That was the evidence you gave to Mr Andronos and that was correct, wasn't it?---Yes, it was the evidence I gave to Mr Andronos but I think I've given previous evidence where I've mentioned section 79C and taking into account LEP and SEPPs and so forth. So, yes, in answer to your specific question, yes.

20 Now, just for my next question, I want to just take a step to the side just to establish context. Thinking of the properties that we've been talking about in your evidence, leave aside 27 Ridgewell Street.---Yes, sir.

The properties and development projects that are being investigated in this public inquiry, in the Canterbury LGA, had applicants or development proponents who were Assad Faker, Jimmy Maroun, Charlie Demian, Ziad and Marwan Chanine, Mouhamad El Badar?---Yes.

30 You talk about balancing the interests of stakeholders, but isn't this the case, that it was because of the identity of those proponents that refusing an application or a proposal or a submission for a proposal was simply not a solution that you ever considered, did you?---I would have applied probably that same to everyone. I'm, that's the way I am and you can reference all the applications that I was dealing with at the time and it was always about trying to find a solution to issues and to developments. I don't particularly, I, I accept, I don't particularly like to refuse applications.

And you didn't?---No. Well, not to the best of my knowledge, no.

40 And balancing the interests of stakeholders did not for a moment even theoretically involve the option of rejecting or refusing or recommending refusal of an application or a submission for a planning proposal, did it? ---No. I mean that's not the way I'm made up, yes, I accept that.

And because refusing applications was not an option, you had an incentive, didn't you, to support clause 4.6 applications to vary development standards where they were made?---No, I don't accept that.

And because refusing an application or knocking a planning proposal on the head was not an option, you encouraged consultants retained to report on

planning proposals to look favourably upon the planning proposals and what the proponents wanted.---I don't accept that.

And the effect of this, I want to suggest to you, was to skew the act of balancing the interests of stakeholders.---I don't accept that, sir.

I'll use the word to pervert the process.---No, sir.

That's my re-examination of Mr Stavis. Thank you.

10

THE COMMISSIONER: All right. Now, there was that discrete area about post-amalgamation contact between Mr Stavis and Mr Azzi. Mr Pullinger, have you got any questions arising from that?

MR PULLINGER: I have, thank you, Commissioner. It's clear from your evidence that as between Councillors Hawatt and Azzi you were primarily in contact or communication with Mr Hawatt as opposed to Mr Azzi, is that correct?---Yes, I accept that.

20

MR BUCHANAN: Sorry, Mr Pullinger. Can I just clarify. Are we talking about post-amalgamation or are you talking about the entire tenure of office?

MR PULLINGER: Initially at the beginning Mr Hawatt was always the person who made more contact with you than Mr Azzi, is that correct?---I believe, so, yes.

30

You referred in the evidence that you gave just a little while ago to Mr Hawatt and Mr Azzi, and you said that they always used to hang out together or words to that effect.---Yes, sir.

And that was an impression that you had gained from about late 2014 and continuing through the year 2015, when they were councillors on Canterbury Council, is that correct?---That's correct.

Post-amalgamation, it's not apparent from your evidence that they had in fact continued to hang out together.---I accept that. I, yeah.

40

And in fact it's apparent that post-amalgamation your relationship with Mr Hawatt, if anything, became closer?---Oh, no, I don't accept that.

Your relationship with Mr Azzi became comparatively distant, is that correct?---I don't know. I don't believe that's the case either.

Do you recall giving evidence, transcript page 4288, Counsel Assisting had taken you to the transcript of a telephone conversation between you and Mr Hawatt.---Yes, sir.

And you recall that that was a conversation in which you'd used the description "business as usual" in your conversation with Mr Hawatt?

MR PARARAJASINGHAM: I object, Commissioner. This seems to be going outside the bounds of the additional topic raised by Counsel Assisting today.

10 THE COMMISSIONER: Mr Pullinger, you've referred to 4288. I haven't been able to pick up the exhibit number yet. That was a post-amalgamation telephone call, was it?

MR PULLINGER: It was, Your Honour, Commissioner. I think it was on the 23rd. It was in May of 2016, I believe. It's a conversation 23 May, 2016.

MR PARARAJASINGHAM: Commissioner, if it relates to a post-amalgamation conversation that touches on this topic, then I withdraw my objection.
20

THE COMMISSIONER: All right. Please continue, Mr Pullinger.

MR PULLINGER: Do you have page 4288 there now?---Yes, sir.

Line 41-42, page 10 of the transcript. And you had told Mr Hawatt that you had told Mr Stewart that Mr Azzi had rung you.---Yes, sir.

And the conversation, sorry, the evidence continues with the suggestion by Counsel Assisting that you were doing that, trying to ingratiate yourself
30 with Mr Stewart. Do you see that passage of evidence?---Yes, sir. Yes, sir.

And please go over the page to 4289. You see at the top of the page, so you were telling Mr Hawatt that you told Mr Stewart that Mr Azzi had been, inquiries about the business paper. Answer, "Yes." Do you see that?---Yes, sir.

And if you just go down, 4289. In relation to your communications with Mr Hawatt, you see there at about line 35, "And so my question is, you were agreeing with Mr Hawatt that your communications with him would be kept
40 a secret between you and him, didn't you?" Answer in that exchange, "Yes."---Yes, sir.

And do you accept that that conversation indicates in part a closeness in your relationship with Mr Hawatt that did not extend to Mr Azzi?

THE COMMISSIONER: At that time?

MR PULLINGER: At that time.---Well, look, I think it was more a case that I was referring to just the way Mr Azzi was. He tended to be a bit more – I think I've said this before – a bit of a shorter fuse than, I guess, Mr Hawatt just by virtue of his personality. But I don't believe I was, I don't know, I don't, I mean, that was in reference to a conversation in relation to Mr Stewart. I don't think my relationship was anything different with Mr Azzi post-amalgamation.

10 It was apparent to you in your conversation on that occasion with Mr Hawatt that Mr Azzi was on the outer.

THE COMMISSIONER: To whom?

MR PULLINGER: So far as Mr Hawatt was concerned and as far as you were concerned, Mr Stavis.---No, sir.

20 But you in fact have no specific recollection of any conversation you had with Mr Azzi post-amalgamation, do you?---No, I think that's what I said before, yes.

Yes, thank you.

THE COMMISSIONER: Now, before I turn to Mr Pararajasingham, did any other counsel have any questions on that discrete topic? All right. Mr Pararajasingham.

MR PARARAJASINGHAM: I have no questions.

30 THE COMMISSIONER: Mr Buchanan.

MR BUCHANAN: No questions.

THE COMMISSIONER: All right. Mr Stavis, thank you very much. ---You're welcome.

Can I say, you have been very patient and also you have been very polite in the witness box. Thank you for giving evidence.---Thank you. Thank you.

40 All right.

MR BUCHANAN: Mr Montague.

THE COMMISSIONER: Yes. And now we've got to have some shifting of positions.

MR BUCHANAN: Perhaps a five-minute - - -

THE COMMISSIONER: Yes.

MR ANDRONOS: We'll take the morning tea adjournment a little early?

THE COMMISSIONER: We'll take a five-minute shifting of positions.

MR BUCHANAN: Mr Andronos is - - -

THE COMMISSIONER: I'm sorry, Mr Andronos.

10 MR ANDRONOS: I was just going to suggest, perhaps we could just take the morning tea adjournment a little earlier because it will take us five minutes to adjust, then we would come back for five minutes and adjourn. Perhaps if we just - - -

THE COMMISSIONER: I was going to suggest that we have morning tea about 25 or 20 to 12.00.

MR ANDRONOS: That works as well.

20 THE COMMISSIONER: All right. Five-minute changing position and then we'll have a later morning tea break.

MR PARARAJASINGHAM: Sorry, Commissioner, just before we break. And I thought, Commissioner, you may have said this but, Commissioner, did you excuse Mr Stavis?

THE COMMISSIONER: I'm terribly sorry. I think he's - he has left. He bolted I think, probably.

30 MR BUCHANAN: In terms of his summons, we would respectfully submit it would be appropriate to excuse him further attendance.

THE COMMISSIONER: Could you please inform Mr Stavis that he's been excused?

MR PARARAJASINGHAM: Yes.

THE COMMISSIONER: And we'll just have a five-minute break.

40

THE WITNESS EXCUSED [10.50am]

SHORT ADJOURNMENT [10.50am]

MR ANDRONOS: Commissioner, we're just confirming our instructions in relation to section 38.

THE COMMISSIONER: Okay. Do you need a little bit longer or - - -

MR ANDRONOS: No.

THE COMMISSIONER: Mr Andronos, I also understand that Mr Montague might occasionally need to stand up and stretch his back or - - -

10 MR ANDRONOS: Yes, he does have a medical complaint which will affect his ability to remain still in the witness box for long periods. My friend has indicated he'll try and keep an eye on Mr Montague's demeanour and I'll do the same and if he needs a break we'll try and inform the Commission - - -

THE COMMISSIONER: All right.

MR ANDRONOS: - - - as soon as that arises.

20 THE COMMISSIONER: Before we do the formal parts, Mr Montague, if at any time you just need to stand in the witness box and stretch, please do so. If you need a more, you know, to get up and walk around or something like that, again just please indicate.

MR MONTAGUE: Thank you.

THE COMMISSIONER: All right. I think we'll first take the, will you take the oath, Mr Montague?

MR MONTAGUE: Yes.

THE COMMISSIONER: Please take a seat. Mr Andronos.

MR ANDRONOS: Commissioner, we seek the benefit of a section 38 order.

10 THE COMMISSIONER: Now, Mr Montague, I understand that you've had a discussion with your legal representatives about section 38 and the protection it will provide. What I do with every witness is I emphasise that it does not provide protection in one very important aspect. That is, if you give false or misleading evidence to this public inquiry, your answers can be used against you, you could be in a prosecution, the prosecution would be an offence which is akin to perjury. It is a very serious offence, brings with it a term of imprisonment.

20 All right. Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by this witness during the course of this witness's evidence at this public inquiry are to be regarded as having been given or produced on objection and there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

30 **PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY THIS WITNESS DURING THE COURSE OF THIS WITNESS'S EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

40 THE COMMISSIONER: Mr Buchanan.

MR BUCHANAN: Commissioner.

Mr Montague, you have read, have you, the statements and other documents in evidence before the Commission?---I've read quite a few of them, yes.

When you say quite a few, sir, what's - - -?---Well, I - - -

- - - the extent of it?---I haven't read everything, no.

All right. Have you read most of the statements of witnesses?---Yes.

And have you read transcripts of evidence given by witnesses in this public hearing?---No.

Have you been present watching and listening to the evidence given by numerous of the witnesses in the inquiry, although not all of them?
---Yes.

10

You were present for the evidence given by Bechara Khouri over two days?---Yes.

You have been present, have you, for much of the evidence given by Mr Stavis?---Yes.

But not all of it?---Not all of it.

20

And I think in particular not certainly the last week. Is that right?---No, I was away. I was overseas.

Yes. Have you caught up with the evidence that Mr Stavis gave during your absence by reading the transcript of his evidence?---No.

You were appointed town clerk at Canterbury on 18 October, 1982?---That's correct.

30

When the Local Government Act commenced in 1993, the present Act, that position changed its name to general manager?---That's right.

And you were general manager through to about June in 2016?---That's correct.

Now, you've worked in local government before you were appointed town clerk at Canterbury. Is that right?---Yes.

Had you worked in local government since August 1965?---Yes.

40

So you had worked continuously in local government from August 1965 through to about June 2016?---Yes.

If we could show you on the screen – and we can certainly provide it if it'll be of any assistance. In 2014, 28 August, 2014 a meeting of council extended your contract of employment I want to suggest to 25 April, 2017. Does that sound about right?---Yes, that's right.

That as on the motion of Mayor Robson?---I can't recall but it's likely.

Then that was the resolution of council. Do you recall that on 11 February, 2015 you signed a contract pursuant to that resolution and the contract of employment ran from 26 April, 2015 to 25 April, 2017. Would you like to have a look at it?---No. That's correct. I can't remember the exact date but that's correct.

And can I just take you, please, to volume 5, page 53 to 55. I just want to take you to particular parts of it. We'll show you the document.---Thank you.

10

So if I can ask you to go to page 39.---39.

You can see that that is the front page of the contract?---Yes, that's correct.

It's been drawn to my attention that I haven't asked you who you are. This is a singular failing on my part. I do apologise.---My name is James Cleland Montague.

20

And your occupation, sir?---I'm retired.

Thank you. Mr Montague, could you go, please, to page 53 in this volume. This is still part of that contract of employment.---Yes.

This document complied with a template, did it, a standard contract of employment for general managers?---For general managers and senior staff, that's right.

30

Thank you. And so if I could ask you to have a look at pages 53 to 55. Do you see there clause 2.3 headed Termination by Either the Employee or Council? I'm sorry, did I say – 10.3 I should have said.---10.3.

And over the page - - -?---Yes.

- - - 10.4, Summary Dismissal?---Yes.

And over the page 11, Termination Payments?---Yes.

You were aware of those clauses in your contract as at 2014/15?---Yes.

40

The clauses were the same in that period?---Yes.

In August, 2015, I want to suggest to you 25 August, 2015, you underwent a performance review conducted by external consultants called Mastertech? ---I can't recall the exact date but that, that sounds correct.

And there was a review panel comprising Mayor Robson and Councillors Kebbe and Saleh?---Yes.

This is volume 24, page 6, Commissioner. Can I ask, who established that review panel?---Well, the council did.

Was it on a recommendation?---I can't recall the details now. It was standard procedure.

Who is likely to have made the recommendation?---I, it may have been almost spontaneous because that had been the, the, the procedure in previous contracts.

10

Now, volume 24, page 6 at a meeting of council on 25 August, 2015, it was reported by Mayor Robson that in regard to key performance indicators the consultants, in conjunction with the review panel, had determined that you had exceeded or greatly exceeded expectations. Do you recall that?---That's the sort of thing you do remember, yes.

20

And I'm told the date is 27 August, 2015, I stand corrected. And that in regards to organisational behaviours or values, "The panel determined that you exceeded or greatly exceeded expectations, consistently acting as a role model in working collaboratively, continuously improving our organisation and demonstrating leadership." You recall that?---Yes.

And Mayor Robson moved that your salary be increased to a level in the upper quartile of remuneration reviewed by general managers in the group of 11 comparator councils.---Yes.

30

And on the motion of Councillors Hawatt and Azzi, this was 27 August, 2015, council resolved that your total remuneration package be amended in accordance with the performance review panel and that you be congratulated on your outstanding service and commitment.---Yes.

Can I take a sidestep now from 27 August, 2015. In the period 2014-2015, did you talk to anyone about your retirement as general manager?---I don't recall that. I certainly didn't talk to anyone in authority, such as the councillors. I may have mentioned it to some of my support staff that I was considering retirement, but I hadn't put a definite date on it.

40

Did you discuss it at all with Councillor Hawatt or Councillor Azzi?---I don't recall that but it's possible.

And was there a time in 2014-15 when you were considering possibly retiring in August 2015?---That was a very difficult period that I was going through and I think it's in evidence, pardon me, I had certainly considered retirement then and I actually prepared a draft resignation letter to the Mayor which I never signed and which I never submitted to him, but that was in the heat of a very, very difficult period in my career.

Before you wrote that letter, and that was early 2015 I think that you wrote that letter, and we'll come to that later, did Michael Hawatt and/or Pierre Azzi know that you were considering possibly retiring in August 2015?
---No, I don't believe so.

And just thinking about it now, perhaps if we break it up, the call for the meeting of council to consider a resolution for termination of your employment as general manager was given to Mayor Robson on Christmas Eve 2014?---That's correct.

10

So thinking of before that time, had you had a conversation with Mr Hawatt or Mr Azzi or Mr Khouri about possibly retiring in August 2015?---I don't believe so.

So this is before the trouble really blew up.---Yeah.

You don't believe you did?---No.

20

Right. After that time, so after Christmas Eve 2014, did you have a conversation with Michael Hawatt, Pierre Azzi or Bechara Khouri about possibly retiring in August 2015?---I had conversations with a lot of people after that time because the notice to terminate my employment on Christmas Eve came as a complete bolt out of the blue. I had no previous knowledge of it, didn't expect it, and of course it turned my world upside-down.

And there were discussions that you had with those three men, amongst others, about what to do about the call for the meeting to consider a motion to terminate your employment, didn't you?---There was conversations with various people, including the Mayor, of course.

30

In any of those conversations was there any discussion about you possibly retiring in August 2015?---Could have been, I don't recall. Could have been, it's possible.

Did you ever indicate after Christmas Eve 2015 a desire to stay in local government for 50 years?---Did you mean 2014, Christmas Eve 2014?

40

I did, I apologise. Thank you.---Yes, I made it clear to all and sundry that I wanted to stay on. I loved what I did. I loved the job. It had been my life for 50 years. I certainly wanted to continue in that role but I knew my time was limited and my position then was that if amalgamations were coming, which they appeared they would, I would like to stay on for a year or two after the amalgamation to assist in the transition from one council, sorry, from two councils to one.

I suppose what I'm asking is, 1965, August 1965 to August 2015, I'm very bad at maths, Mr Montague, you might be aware of that, would have been 50 years.---That's right.

And so it would stand for ordinary people as a milestone in their career, wouldn't it?---Yes, I would think so.

Did you ever indicate to anyone that you wanted to achieve that milestone and that after that there might be different ways of living the rest of your life?---I certainly wanted to achieve that milestone but I wanted to go on, as I've already said a few minutes ago, I wanted to go on beyond that, yet I realised that with amalgamations pending there was obviously a finite time.

10

Did you have an understanding that beyond the entitlements under your contract you would accrue any financial or other benefit, whether you gained immediate access or not, if you stayed on till August 2015 as general manager?---No. All I was entitled to was what was described in the contract of employment and I was comfortable with that.

20

Now, can I change the subject, please. Can I ask you questions about the Residential Development Strategy. Excuse me a moment. If Mr Montague could be provided with a copy of volume 11 in Exhibit 52, please. If I can just ask you a few background questions, please. Thinking of the Canterbury Local Environmental Plan 2012. There was a particular process by or context in which it was made, wasn't there? That is to say, the government wanted councils to remake their LEPs to comply with a template called the Standard Instrument?---They wanted a consolidated LEP. That's all I can recall. I'm not a planner and I didn't understand the detailed nuances of what was happening at that time but they certainly wanted a consolidated LEP, yes.

30

And do you have this recollection, was council under pressure for the 2012 LEP to be made by a particular deadline?---I don't recall. I don't know. I don't know that.

Is it the case that submissions were received as to changes that should be made to the LEP and the DCP which were not considered during the LEP making process?---I can't, I don't know that either I'm afraid.

40

And did council come up with what was called the Residential Development Strategy to accommodate consideration of the submissions that had been received in the process of making the LEP and the DCP in respect of particular properties, particular sites but which had not been taken into account in the LEP making process?---Oh look, those matters were being dealt with in other places in the organisation. It was the role of the planning division and the councils themselves to determine those things. I didn't take a great deal of interest in the formulation of the Residential Development Strategy or the, or the consolidated LEP.

But you do remember a thing called the Residential Development Strategy?
---Yes.

Can you just tell us what you understood the Residential Development Strategy to be in that case?---Oh, this is, this is coming from a layman. As I said, I'm not a planner.

10 That's what I'm asking. What your understanding was at the time?---Well, it was to bring about developments across the City of Canterbury and indeed across Sydney to reflect at that time the government's plan to increase the availability of housing stock. I think from memory Canterbury was, and this, I'm talking now about the Labor Government and the state plan that was formulated back then. I think Canterbury was required to provide an additional 7,500 dwellings. That was, that was the whole thing was based on as I understand.

But you've got no memory at all of a document that was prepared for Canterbury Council called a Residential Development Strategy?---I know it was prepared but I've got no knowledge of its contents. No detailed knowledge of its contents.

20 It would come to you as a surprise to learn that it contained assessment and consideration and recommendations in respect of submissions from landholders and development proponents seeking to loosen development controls in the LGA?---I don't know about loosening controls but certainly it wouldn't come as a surprise to me if those submissions were taken into account.

Well, none of the submissions were to tighten controls, were they?---I don't
- - -

30 None of them were considered in the Residential Development Strategy? ---I'd prefer to use the word vary the controls. I don't know what those variations - - -

Vary which way?---Well, either way. I don't know what the controls intended to achieve, the variations.

40 So you don't have a memory at all of any discussion with any development proponent about their submission to council's Residential Development Strategy or how their submission might be dealt with by council? ---Specifically in relation to submissions made by individuals or stakeholders or proponents, call them what you will, no, I had no conversations and it wasn't my practice to do that. That's something that had to be considered ultimately by the council.

Yes, but you presided over mayor ex meetings didn't you?---I did. Well, no, not mayor ex meetings. The Mayor was the chair of those meetings.

Fair enough. But you participated in those meetings?---Yes.

You considered the business papers that went forward to council?---Yes. But only in a very cursory way. We didn't drill into great detail. Those meetings followed a meeting of the leadership team which we called the coordination meeting.

Yes.---And we coordinated on what was being proposed to be presented to the next council meeting or the next City Development Committee as the case might be.

10

And the Coordination Committee, is that right, comprised you and the directors?---Yes.

Well, can I just take you, see if I can bring something to mind. Can you go to page 107 in volume 11. It should be in front of you. And can you see that this is a report, it commences in page 106?---Yes.

20

By the director of city planning to an extraordinary meeting of council to be held on 31 October, 2013, and then over on page 107, there's an overview of Residential Development Strategy and you can see that it says that the consultants were appointed in February of 2013 to prepare the RDS, that a final draft had been prepared and provided separately to councillors.---Yes.

Can you see that it says, "The RDS is a major planning document, the purpose of which is to guide future residential development within the city area"?---Yes.

Does this ring a bell now?---No.

30

You would have read it at the time?---I would have read at the time, of course.

There's, over on page 108, if I can just draw your attention to it, under heading Key Conclusions, can you see a number of dot points? The first two of which, at least, reflect what you were just telling us about, that is to say as to development pressures.---You're referring to the top dot points, are you?

40

I do apologise, sir. I meant under the heading Key Conclusion.---Okay, yes. Okay.

Can you see there's four dot points?---Yes.

The first two of them reflect what you were just telling us about?---Yes, that's right.

And did you agree with that process whereby a consultant made recommendations about these submissions, that report then being considered by the council?---Well, that's not uncommon.

You agreed with the process, though?---I have got reason to disagree with it. I had no reason at the time. As I said, it wasn't uncommon.

Well, I'm just trying to ascertain, were you involved in the process at all?
---No.

10

Did you oversee it?---No.

You didn't oversee it?---No.

So it was dealt with entirely, so far as responsibility was concerned, by Mr Occhiuzzi, was it?---Yes, then it would have been, and his staff, his senior staff.

20 Can I take you then to, please, page 54 to 87. And can you see that page 54 is the front page of a document headed Canterbury Residential Development Strategy?---Yes, I can.

And if you flip through you can see that it comprises, almost in its entirety, a series of assessments of submissions, just take any single page at all, and then recommended action.---Yes.

Does that ring a bell?---No.

30 Did you attend all meetings all right council?---Invariably, yes, unless I was I'll or away, yes.

Can I take you to page 89, please. Sorry, 88 in the first instance.---88.

Can you see that that's an email to you from Mr Occhiuzzi on 23 October, 2013, which has as an attachment, "Councillor Hawatt's motion.docs"?
---Yes.

40 And Mr Occhiuzzi asked, I'm sorry, forwarded an email from Mr Occhiuzzi to an man called Michael, which you can assume was Mr Hawatt.---Yes, presumably.

And then Mr Occhiuzzi asked you whether you wanted this sent on to the Mayor. Can you see that?---Yes.

And if you look at the email from Mr Occhiuzzi to Michael, you can see that he says that he attaches some commentary in response to proposed amendments that you, Mr Hawatt, tabled yesterday. He had particular concerns about, and then he identified a couple of items.---Yes.

And he suggested, "This needs exploring carefully with full knowledge and awareness of potential impacts and consequences. The approach that you're exploring does not provide enough certainly about what these changes might be across the board. Do you see that?---No, I don't see that last part, I'm sorry.

So just before halfway down the page.---What, page 89?

10 I'm sorry, 88.---88. I'll just read it if you don't mind.

Yes, sure.---Yes, I can see that now, yes.

And then if you go over the page you can see there's a document, which you can take as being the attachment to the email to you, which is headed Comments in Response to Councillor Hawatt's Motion.---Yes.

And it goes to page 91.---Yes.

20 And you can see that there were a number of dot points which Mr Occhiuzzi did not support and he then gave reasons?---Yes.

Do you have a memory of there being in council some changes made to the Residential Development Strategy?---You mean by council?

Yes.---No, I don't. I don't know what became of this information, I don't know whether it was passed on to the Mayor or other councillors or not, but it would be reasonable to assume at some stage they became aware of it.

30 But it's also reasonable to assume, isn't it, because we can see it was sent to you - - -?---Yeah.

- - - that you were then aware that Councillor Hawatt wanted to make changes to the Residential Development Strategy and that as to some of those changes, Mr Occhiuzzi did not support them and gave reasons why he did not?---Yes, yes.

Is that something that you discussed with Mr Hawatt?---No. Not that I can recall.

40

Can I just ask you, if you could just have a look, please, at page 89, you can see there's a list of properties - - -?---Yes.

- - - about halfway down, starting halfway down the page.---Yes.

And can you see that one of them is 548-568 Canterbury Road (Harrison's)?
---Yes.

That was a property, was it, that as at 23 October, 2013, you were interested?---(No Audible Reply)

The Harrison's site?---I don't know what you mean by interested.

Had you become involved at all in any question as to development of that site?---Well, you mean with the development, the applicant or the proponent or the owner.

10

Up to you. Whatever the, whatever your involvement was.---I, I, I can't recall.

Can you tell us?---But you've got to keep in mind, that is an iconic site on Canterbury Road, it's a huge site.

20

Yes.---And yes, I wanted to make sure that those large sites, right across the City of Canterbury, not just on Canterbury Road, were considered and were dealt with effectively in terms of what development potential might exist on those sites.

So for that reason did you pay attention to what Councillor Hawatt was proposing in respect of that site?---Not, not particularly because Michael always had a wish list of things, that's how he did things. I'm not sure that he was that well informed on planning issues and some of those things that he put forward I think just came, were just thought bubbles.

30

Did you pay attention to the fact that Mr Occhiuzzi didn't support what Mr Hawatt was proposing - - -?---Of course, of course.

- - - in respect of that site?---And I respected Marcelo's views on these things. Of course.

Did you have any discussion with Marcelo about his disagreement with Mr Hawatt in this document around 23 October, 2013 in respect of that site?

---That's five years ago. I can't remember those. If I did have a - it's possible, but I can't recall it.

40

Would you have been - I withdraw that. Can you go then to page 90 in this volume. Item 5 is about new dot point 3.13 that Mr Hawatt was wanting to rezone - - -?---Yes.

- - - and to change the height limit, and Mr Occhiuzzi disagreed for the reasons given in the RDS report.---Yes, I can see that.

Was that a site at this stage, October 2013, in which you were interested?---No.

That is to say 998 Punchbowl Road?---No, not really.

Thank you. Can you see, if we go to page 92, that Mr Hawatt sent you and Mr Occhiuzzi on 30 October a document entitled LEP Amendments 2.doc. And you can take it from us that the attachment is printed out on the next two pages, 93 and 94.---Yes.

Those were Mr Hawatt's proposed changes as at 30 October, 2013.---Yes.

10 Were you aware of that?---Well, I must have been because it was addressed to me and no doubt I saw it. But as I said earlier, I didn't take a lot of notice of what Councillor Hawatt said when it came to planning issues.

Or is it because you relied on him to do the right thing as far as you were concerned?---Well, I, I expected all councillors and all staff to do the right thing and behave ethically.

20 Yes. I should rephrase that. Did you expect him to make changes in accordance with the way you thought development should take place on these sites?---No, absolutely not.

30 Why not?---Because it's not my role. I had an interest in sites on Canterbury Road and elsewhere in Canterbury, in the town centres in particular, because I'd, I'd, I grew up in the area. I knew it well. When I arrived there in '82 what surprised me was that it hadn't changed much when I was there in the 1960s, and I wanted to see development happen. I wanted to see Canterbury grow. That was my interest. It was just a general interest in seeing Canterbury catch up with neighbouring councils like Burwood and Strathfield and Marrickville – not Marrickville, Hurstville, for example. Canterbury, in my view – and I expressed this view, it was just my view of things – had lagged behind. It had not kept up with, with time.

40 And so does that mean that at that time, October 2013, you expected that if Michael Hawatt was making changes or trying to make changes to the recommendations in the Residential Development Strategy in respect of these very same sites as you were interested in seeing developed, that he would try to ensure that that sort of development that you wanted to see take place in fact take place?---No, I didn't want to see any development, any type of development take place, and it didn't only refer to those sites.

Sorry, you didn't want to see any development take place?---No, I said, I said in earlier evidence just now I wanted to see things grow in Canterbury, and that means the whole municipality or city, not just along Canterbury Road.

How would development take place, I'm sorry, how would things grow unless the sites were developed?---Of course. But they had to be developed

in a way that reflected contemporary standards, planning controls and community interests. That just goes without saying.

Now, if I could just take you then to page 106 of this volume. You can see that this is Mr Occhiuzzi's report to the meeting of 31 October, 2013, and it goes through to page 130. And that it recommended – this is page 119 – endorsement of the Residential Development Strategy subject to the changes outlined in Mr Occhiuzzi's report and excluding a nominated site.---Yes.

10 And that a planning proposal be prepared to implement the changes listed in item 3 and following. And I'm going over to page 120.---Yes.

Can you see that?---Yes.

Now, I wonder if I can take you, please, to Exhibit 54. I'm sorry, before I go to that, could I just draw attention to time, Commissioner.

THE COMMISSIONER: Is that an appropriate point?

20 MR BUCHANAN: Yes, it is.

THE COMMISSIONER: All right. We'll take the morning tea adjournment and resume at 12 o'clock.

SHORT ADJOURNMENT

[11.39am]

30 MR PARARAJASINGHAM: Commissioner, Commissioner, sorry, could I just ask
- - -

THE COMMISSIONER: Oh, yes, sorry.

MR PARARAJASINGHAM: Me back here, Commissioner. Can I just inquire what time we're finishing today?

40 THE COMMISSIONER: Now, it was raised I think through Counsel Assisting, you still have your lecturing obligations?

MR PARARAJASINGHAM: Yes, that finishes next week, yes.

THE COMMISSIONER: And also that Mr Montague is a witness that you may be interested in, in particular.

MR PARARAJASINGHAM: Yes.

THE COMMISSIONER: And you would seek for us to finish about 4.00 today?

MR PARARAJASINGHAM: And this would be the last time I'd be seeking that, unless of course we're still here this time next year, but - - -

THE COMMISSIONER: I don't know if I would be. All right. Look, today we'll, is 4 o'clock - - -

10 MR PARARAJASINGHAM: Yes, that's suitable.

MR BUCHANAN: Yes, Commissioner.

THE COMMISSIONER: You're fine with that, Mr Buchanan?

MR BUCHANAN: Yes, Commissioner.

THE COMMISSIONER: All right. We'll finish today at 4 o'clock.

20 MR PARARAJASINGHAM: Thank you, Commissioner.

All right. Mr Buchanan.

MR BUCHANAN: Thank you, Commissioner. If the witness could be shown Exhibit 54, please. There's a copy of the first page of Exhibit 54 on the screen, Mr Montague.---Yes.

30 It's an eight-page document. It's a transcript of notes in a notebook. The notes were made by Mr Occhiuzzi. Some of the notes in the transcript have been redacted. The notes he gave evidence about with one exception were relatively contemporaneous with the events that he described. The exception is on the fifth page, which is an entry for late May 2014 which he describes as belated. Can I take you, please, to an entry on page 2 for - I'm sorry, the bottom of page 1, 30 October, 2013, meeting with Councillor Robson, Azzi, and it says for, f-o-r, Hawatt and for, f-o-r, GM (JM). It goes on to say on the next page the purpose of the meeting was to go through Councillor Hawatt's amended motion for the RDS item. On the extraordinary council meeting Councillor Hawatt went through each item. Councillor Robson raised concern about the Harp/Alfred Road proposal and
40 Councillor Azzi lost his temper, stating that Canterbury is getting left behind and that our controls were not facilitating development. He said, "I don't care about consultants' reports or officers' reports, I was elected to make decisions and that's what to do." He said that if people didn't like it they should kick him out in three years' time. The GM said that this was fine, as long as councillors approached their decisions with clean hands, and Mr Occhiuzzi used inverted commas around the words "clean hands". You've seen this exhibit, I take it, before today?---Ah, I can't say I - - -

You've had a chance to consider it?---I haven't, no.

You haven't?---No.

First time you've seen it?---No, I wouldn't say it's the first time I've seen it but I just would have looked at it cursorily.

Right. Okay. Well, do you recall this meeting?---No, I don't.

- 10 Do you accept that the account that Mr Occhiuzzi gives is accurate?
---I have to because one thing Marcelo was, was very, very particular.

And do you recall – I withdraw that. How often was it that Councillor Azzi lost his temper in your presence?---Councillor Azzi or Mr Azzi is a very excitable individual and it wasn't uncommon for him to express himself very robustly.

And how often - - -

- 20 THE COMMISSIONER: So are you agreeing that he - - -?---Yes.
- - - lost his temper?---Yes.

MR BUCHANAN: Yes. I'm thinking of occasions when he might have expressed himself robustly in response to a particular item from an officer of council, for example.---Yes, that's, that's, that's true. He had a particular disdain for, Councillor Azzi or Mr Azzi had a particular disdain for consultants.

- 30 Did he have a particular disdain for Mr Occhiuzzi?---I didn't sense that then, but of course subsequent events revealed that there was some conflict between the two and that also included Councillor Hawatt of course.

- 40 Do you recall after an expression of robustness on the part of Councillor Azzi at a meeting such as this when the RDS was being considered, that you said that it was fine essentially for Mr Azzi to make decisions irrespective of what officers or consultants said, so long as they approached their decisions with "clean hands"?---No, what, no, I don't think that's, that's entirely right. What I meant by clean hands of course is that there's nothing else going on, that it's, that it's, it's an honest assessment or approach to the issue. But in all my time in local government, one of the things that looms large in my mind is that it is up to the councillors to make decisions, that's why they've been elected, and they can only make those decisions based on professional advice they receive from the officers or from other sources that are reputable – could be the department, could be anybody – and councillors did that often. So it's not uncommon for a councillor to express a view that he doesn't agree with a particular point of view of an officer, and if that report

goes up it's entirely a matter for the council to determine will it be accepted or rejected.

By using the expression "clean hands", on that occasion, did you have in mind that there was a risk that a councillor such as Councillor Azzi might make a decision corruptly?---Clean hands is, is, is a figure of speech. To me it may mean something different to what it means to you but I was concerned that the councillors would abide by the contemporary standards, planning controls and act ethically.

10

So you were concerned that, in the case of any of the properties the subject of the RDS items on the extraordinary council meeting agenda, that Councillor Azzi might be influenced by extraneous considerations? That is to say, considerations he should not be allowing to influence him, such as the wishes and desires of a particular development proponent.---I had no firm evidence of that, but knowing Councillor Azzi's disposition it would be possible that he would, that he would try to make a decision that he thought was in the best interest but it may not be, and he wasn't at all opposed to putting his view forward that we shouldn't consider the consultant's views or we shouldn't consider that, that's nonsense. He, he, he was a very, or could be a very aggressive individual.

20

One way of reading this evidence, this transcript in this particular respect of you saying that this was fine as long as councillors approached their decisions with clean hands, was that you had a concern that Councillor Azzi might be under the influence of a particular development proponent or proponents in coming to his decision as to the positions he would take.---I don't, this is, can I just date this? This is in August '14, is it?

30 THE COMMISSIONER: No.

MR BUCHANAN: No, October 2013. 30 October, 2013.---Well, maybe I didn't at that time but there was a council meeting in October 2013, where, if I can use another expression I often use, the wheels fell off. There are a whole series of applications that had been, I think, reported to the Independent Hearing and Assessment Panel and the officers made clear recommendations as did the IHAP. I remember vividly there being a proposal put forward that those recommendations be rejected, and if memory serves me correctly we adjourned to the function room, as we call it, which was adjacent to the council chamber, to consider what was being proposed and that meeting lasted about half an hour. The council resumed and the, and the recommendations put forward by, I believe, Councillor Hawatt were adopted by and large.

40

Why did you tell us that – in answer to my question as to whether your use of the expression "clean hands" in respect of councillors approaching their decisions in respect of the meeting on 30 October, 2013 – might have indicated a concern in your part that Mr Azzi might not be approaching his

decisions with clean hands? Why did you tell us that?---Well, I think you needed to know the background and what subsequently happened with, with that meeting in October that I referred to.

Yes. But I'm asking you, sir, not about what happened subsequently. I'm asking you about why you used the expression "clean hands" when talking in response to Councillor Azzi losing his temper and you talking about the importance of councillors approaching their decisions with clean hands.

10 ---My experience with this particular council, elected in 2012, was that they weren't as fastidious with adhering to the controls as previous councils may have been. So, I guess, and I, I don't know what the thought process was, but maybe I had a concern that they were prepared to cut a few corners, if I can put it that way.

And when you say "might not be as fastidious with controls", what sort of controls are you talking about?---The planning controls. You know, whether, whether it's the DCP, the LEP or whether it's the residential planning document to what it might be.

20 You're talking about controls imposed on the conduct of councillors by the council's code of conduct?---No, I wasn't thinking of that, although at times Councillor Azzi's behaviour I think let him down and it wasn't appropriate and I made that clear to him on a couple of occasions. Because of his nature, his personality.

30 THE COMMISSIONER: And what, you suspected in breach of the code of conduct or not complying with it?---Well, not complying with it strictly. I mean, you're not supposed to berate staff and carry on like a pork chop. I mean, these things were happening and Councillor Azzi, as I said, was very excitable and I don't think he had a lot of regard for the written word when it came to how he should behave.

Just before Mr Buchanan proceeds, when you were giving some evidence about Mr Azzi losing his temper you said he had a disdain for consultants. Consultants, who are you referring to there?---Not all consultants but there were some, and I can't remember who they were now but I do remember him criticising certain consultants when they supplied the council or the officers with information to assist in them development reports for council.

40 So you're thinking of circumstances where the council would engage a third party, a consultant to either provide a report or assist in some way?---Yes.

MR BUCHANAN: Mr Montague, if you could read on the second page of Exhibit 54 the entry against the date 31 October, 2013, to yourself, please.
---Yes.

In the disagreement between Mr Occhiuzzi and Councillor Hawatt over the contents of the draft Residential Development Strategy did you take position

on one side or the other?---No. I asked, as this, these minutes or these notes of Mr Occhiuzzi indicate, he – I would sometimes, not amend, but clarify motions moved by councillors if they were grammatically incorrect or if they didn't convey what they were trying to explain to the council, and other people did that as well of course. That wasn't confined to me. A planner often did that.

10 Did you do anything to try to support your director of city planning in that disagreement?---I always tried to support my senior staff if they brought a particular concern to my attention.

Well, you could see it happening before your eyes over a series of meetings.---Well, perhaps you could put that.

Well, what did you do, anything?---I can't recall. I don't think I did anything specific but it was pretty much becoming the norm rather than the exception.

20 You didn't circulate a minute to councillors at that meeting or for that meeting supporting your director of city planning?---I can't recall that. I don't know. It's possible but I can't recall.

Well, if there's not one in the evidence it would suggest that you didn't? ---Possibly, yes.

Now, is it fair to say that the driving force behind the changes made at 31 October, 2013 meeting to the draft residential strategy were driven by Councillors Hawatt and Azzi?---I think it's fair to say that, yes.

30 And did you understand that Mr Occhiuzzi's opposition to those changes caused Mr Occhiuzzi to be unpopular with those two councillors?---I think over time – I think Mr Occhiuzzi started with us in 2010 if memory serves me correctly. I think over time there was certain tension between Mr Occhiuzzi and those two councillors, particularly towards the end of his tenure.

Well, the end of his tenure I think was a letter of resignation of 10 October, 2014. I assume you would have received it close to that date?---Yes.

40 Do you recall on 2 October there was the next meeting on the Residential Development Strategy, that is to say, the planning proposal had gone on exhibition. It came back to council. There were changes proposed to it by Councillors Azzi and Hawatt and some of those changes were recommended against by Mr Occhiuzzi.---Yeah, that, that doesn't - - -

Do you recall that?---No, I don't recall but it doesn't surprise me.

But those changes were in fact made by council?---Yes.

And you didn't do anything to support Mr Occhiuzzi in that disagreement
- - -?---Well, I didn't - - -

- - - a year later at the October 2014 meeting?---Well, when you say I didn't
do anything, I remember saying on one occasion – I mean we're all big
boys. These guys were on big salaries. They had to do their job and - - -

You're talking about the director now?---I am.

10

Yes.---And he came to me and said at one stage, I can't put a date on it, that
he was receiving a little bit of stick, if you like, from Councillor Hawatt and
Councillor Azzi, Azzi in particular, but nothing specific and he appeared to
me at the time that he was unhappy, and I think that's what ultimately led to
his departure from the council.

So you think that pressure from Councillors Azzi and Hawatt contributed to
the reason for Mr Occhiuzzi resigning?---Undoubtedly.

20

After 2012 you made it clear, didn't you, to or in the presence of Mr
Occhiuzzi that the political climate for DAs and planning proposals at
council had changed?---Yes.

And you made it very clear that Canterbury was a pro-development council?
---No, I, I made that, that clear to not just Mr Occhiuzzi but the entire
leadership team that the council elected in September 2012 was different
and that we had to be aware of that and we had to adjust for that, if you
wish.

30

And you made it very clear to the leadership team - - -?---Yes.

- - - that Hawatt and Azzi were in charge of how council dealt with
development in the local government area?---That's a, that's a hard one to
answer because what happened was the council was transformed by the
presence of those two councillors and by other factors that meant the
traditional structure of the City of Canterbury pre-2012 changed
dramatically. And there were a lot of reasons for that, but what it meant was
in the end, in the ultimate, was that Councillor Hawatt and Councillor Azzi
and others who joined them – what I call “the junta”, the group – gained
control of that council.

40

And certainly Hawatt and Azzi were in charge of how council dealt with
development - - -?---Yes.

- - - in the Canterbury area?---It would seem, it seemed that way, yes.

And you would have made that clear? You would have acknowledged that to your leadership team?---Yes. Well, they knew it anyway, they could see it, they attended council meetings.

Can I ask you to have a look, please, whilst still on this transcript of notes in Mr Occhiuzzi's notebook, Exhibit 54, at 18 December, 2013.---Yes.

Could you read this entry to yourself. It goes over from page 3 to page 4.
---Ah hmm. Yes. Yes.

10

Looking at page 3, the second full paragraph there, "GM has kept a close interest in the DA for 45 South Parade, Campsie."---Yes.

Was that correct?---Yes, because it involved the council directly. It was our property.

And the proponents were Ziad and Marwan Chanine?---Yes.

20

Was the identity of the development proponents another reason why you took a close interest?---No.

Can I take you to – excuse me a moment. On page 4 the gist of what Mr Occhiuzzi recorded was that in early March 2014 there was a meeting of council at which the DA for 45 South Parade was approved and two conditions recommended by Mr Occhiuzzi to improve amenity but which would have reduced yield were deleted. I don't suppose you recall that specifically?---No. I know there was a lot of toing and froing in relation to that site for a variety of reasons.

30

In the debate, Mr Occhiuzzi says, "Councillor Azzi criticised Mr Occhiuzzi's handling of the DA and said to Mr Occhiuzzi that he hadn't done his job properly and glared at him and shot him dirty looks." Did that happen?---I don't recall that - - -

Did you see that happen?---I don't recall it but it's, it doesn't surprise me because that's how Pierre was.

40

You'd accept that that's the sort of occurrence that could be expected to have place Mr Occhiuzzi under pressure in his job?---Yes.

Did you do anything to support Mr Occhiuzzi on that occasion?---Not specifically in relation to that occasion. What he did speak to me, as I said earlier, about pressure being applied by the councillors. I told him to do his job to the best of his ability without fear or favour and if he needed to, to stand up to the councillors.

You didn't take Councillor Azzi aside and tell him that he shouldn't treat council staff the way he treated Mr Occhiuzzi?---I could have but I don't

recall but it's the sort of thing I, I would have contemplated, definitely, because Pierre just went too far.

Did you ever do that?---I can't recall but I could have.

Excuse me. Excuse me a moment, excuse me. In that passage that you read from the transcript of Mr Occhiuzzi's notes, pages 3 to 4, at the bottom of page 3 he says, "I recall that on 11 February", this is in 2014, "just before a councillor workshop the GM approached me and said that Zena was being a bit fussy with the DA." She was a council planner?---That's right.

"He showed me", he being you, "a message on his phone from Bechara which asked the GM to get me involved as Zena was being a bit over the top with her demands on design issues. I said that we still had issues, for they would need to be addressed." Do you recall that happening?---I can't remember the specifics of it but I'm not, I'm not doubting it happened.

And that you had on your phone a message from Mr Khouri which asked you to get involved because Zena was being a bit over the top with her demands on design issues.---Yeah, I don't recall the details.

And then you showed it to Mr Occhiuzzi. In other words, did you take up Mr Khouri's concern – expressed to you by the SMS you showed to Mr Khouri – with Mr Khouri? Was that what you were doing when you showed it to him?---With Mr Khouri?

I'm sorry, Mr Occhiuzzi.---Mr Occhiuzzi.

Thank you.---Oh, I'm sorry. To answer that question, you have to have an understanding of how the planning division was structured and the problems that were, that beset that division, and there were delays, inexplicable delays, and people would often come to me – whether they were an applicant, whether they were a proponent's representative, whoever it might be – and ask could I have a look at it and try to hurry it along a bit if there were blockages or things that were inexplicable. And that doesn't, that's not uncommon either. There were, there were all sorts of representations made on behalf of individuals, including mum-and-dad applicants.

And on this occasion you knew that Bechara was making representations to you to intervene with your staff on behalf of Marwan and Ziad Chanine?---I, I, not sure of that, and he had his, he had a right to make representations. Whether I acted on them and whether it actually led to any change in the position of Marcelo, I don't know, but there was certainly pressure being applied, indirectly and directly in relation to outstanding DAs and they weren't necessarily major DAs. It was just a symptom of the difficulties that we confronted that I had confronted for years in relation to the planning division.

So it would be fair to say that what Mr Occhiuzzi describes in that passage would not have been unusual?---In what respect, I'm sorry? I don't understand.

It wouldn't have been unusual for you to have received a representation from Mr Khouri and for you to then take that representation to Mr Occhiuzzi with a view to having the concern or complaint addressed, remedied?---I, I'd act in the same way if I received a - - -

10 No, no, no, that's not the question I asked you, Mr Montague.---No, no, but -
- -

It would not have been usual. Is that right?---I wouldn't go that far. I mean
- - -

What would you say then as to whether it would have been usual or not?
---Well, I'm saying that people that make representations I would take them forward, yes, whether it was Khouri or somebody else.

20 Then you were made aware, were you, of an incident that occurred in April, 2014 in respect of a section 96 modification at an address of 23 Oatley Street, Kingsgrove. A proponent had a consent for or an approval which required some landscaping and instead had concreted over the yard concerned?---Yes.

It was a residential property.---I remember that one.

Mr Occhiuzzi talked with you about it?---Yes.

30 This is something that you mentioned to Mr Stavis?---Yes, I believe so.

Why did you mention it to Mr Stavis?---Well, I'm not sure it was resolved at that point. I can't remember the history. It was a very small piece of concrete that replaced landscaping on the site as I recall. It was a storm in a teacup.

And the storm though was between Mr Occhiuzzi on the one hand and Mr Hawatt and Mr Azzi on the other?---Yes.

40 And you understood that there had been a dispute between the three of them on-site? When I say between the three of them I mean Mr Hawatt and Azzi on the one side and Mr Occhiuzzi on the other.---I recall – I think I'm right – that he was, Marcelo that is, was invited to go on-site with the two councillors. I don't actually know whether that meeting happened but it probably did and I think things got a little bit heated at that site inspection.

What do you understand happened to Mr Occhiuzzi at that site inspection?
---I think he got beaten up.

Verbally?---Yes.

By Mr Hawatt and Mr Azzi?---I don't know which one but I guess the two of them.

Do you think that would have been stressful for Mr Occhiuzzi?---I think it'd be stressful for anybody.

10 Were there other occasions of which you were aware where Mr Occhiuzzi encountered Mr Hawatt and Mr Azzi in circumstances that you think would have been stressful for him?---Not as graphic as that, no.

But there would have been other occasions?---I daresay there were.

And did you hear councillors make remarks which were disparaging of Mr Occhiuzzi whether Mr Occhiuzzi was present or not?---There could have been comments made over the, over the table in the function room before, preceding the meetings. There could have been something said at a
20 council meeting. I don't recall precisely but there's no doubt in my mind that, that Councillor Hawatt and Councillor Azzi were concerned about Mr Occhiuzzi's performance.

Performance in relation to the assessment of development applications or planning in relation to development in the Canterbury area?---Generally. Generally.

Well, in relation to compliance?---But particularly in relation to some of these DAs that popped up like the one in Oatley.
30

Now, during 2014 did you express to Mr Occhiuzzi concerns about his performance in the position of - - -?---Yes, I did.

- - - director of planning?---Yes, I did, because I - - -

How many times?---I can't put a number on it. A couple of times perhaps when I had the opportunity.

40 What happened?---Marcelo and I had a very good relationship. I did that to make him aware that there, you know, there were rumblings there and in the end the officers are there to implement council decisions and that he had to respect that. As long as those decisions are lawful of course.

THE COMMISSIONER: So the concerns that you expressed to Mr Occhiuzzi about his performance were concerns that had been articulated to you by councillors?---Either articulated to me one-on-one or just said in passing in a group. It could have been in the function room.

Pierre was quite happy to do that, to just sound off and whoever was in earshot would hear it, and I was sometimes in that, in that circumstance.

MR BUCHANAN: And when the Commissioner said “councillors” you understood that to be those two?---Predominantly, yes.

So have you read the entry that’s on page 5 of Exhibit 54 against the date late May, 2014 belated entry?---Yes, I just scanned it then actually.

10 And are you satisfied that you are familiar with what’s in it? Because my question is, is what Mr Occhiuzzi says in this entry correct?---I, I couldn’t say that. I haven’t actually read it in any depth, but there are comments there that reflect what I said earlier about the way the council had changed and that the politics of the place were very different to what we had pre-2012, and that’s indisputable. And I said that, I had said to him before that there were issues with the way the planning division was performing. We’d always had delays in processing, conflicting advice, unsatisfactory reports from the Division of Local Government about, or the Office of Local Government, about our processing times, and I said he just had to get
20 tougher with his staff and demand performance from them, which is my role as GM.

And when you say performance, performance in what respect or respects?
---Don’t leave DAs languishing on somebody’s desk. If somebody goes on leave, for example, this was a common complaint, somebody would lodge an application, they may have had a pre-DA meeting or they may have gone to the front counter, the reception, and been given certain advice, they’d lodged their DA, which for all intent and purposes was correct, it had all the information we needed, that person, it would be referred through the normal
30 process, which I’m not all that familiar with, and somebody would be allocated that, that DA to assess. Now, that person might then turn around the next day and go on a month’s leave. There were cases where that application then sat there for a month until he or she returned, and that wasn’t satisfactory.

Any other respects?---Sorry?

Any other respects?---What do you mean, sorry?

40 Where you were concerned with the performance of the division?---Well, mainly that, mainly the bad processing times, the constant reminders from the Office of Local Government that our processing times weren’t satisfactory.

So it’s processing times, processing times, processing times as far as you’ve told us.---Conflicting advice, conflicting advice, people come to the counter, they get told one thing, they lodge the application and then they’re told something different.

Were you ever concerned that under Mr Occhiuzzi the division was not providing solutions to developers and development proponents?---No. All I expected from Mr Occhiuzzi was to, was to determine or to assess applications and to get the best possible planning outcome for the applicant and for the community at large.

10 Right. So can I just take you then to the entry for late May 2014 on page 5 of Exhibit 54, the second full paragraph, second line, Mr Occhiuzzi attributed to you the expression “the junta”, or junta, were in control.
---Well, I used that expression earlier.

And that the Mayor was a passenger and that there was growing dissatisfaction with Mr Occhiuzzi’s performance. Correct?---Yeah, I don’t know whether I used that term, passenger, but certainly the Mayor, the Mayor’s position had changed in relation to what his relationship with the other Labor councillors, not to mention the non-Labor councillors, and that changed the political complex of the council entirely.

20 That the Mayor didn’t have the numbers. That’s what you were saying?
---Well, no, in the end he didn’t.

Going down then to a few lines below that, you gave an example of dissatisfaction with Mr Occhiuzzi’s performance, being 23 Oatley Street.
---Yes.

30 So you, as far as you were concerned, Mr Occhiuzzi was in the wrong and he should have acceded to the requirements being made of him at that time by Councillors Azzi and Hawatt. Is that right?---No, I wouldn’t say that.

What would you say?---I think, I think there was an impasse between the three of them that could have been resolved and should have been resolved earlier.

How?---Talk, go on-site, talk to the applicant, find out what the issues were, it was a slab of concrete two metres by one metre, it was hardly, you know, the end of the world, and it wasn’t a major issue in that DA anyway.

40 Let us assume that the applicant in that case refused or didn’t want to take the concrete up. What was the DCP to do, waive, w-a-i-v-e, the non-compliance or what?---Well, that’s a matter for council in the end, that would have to be reported back to council to determine whether they were prepared to waive that exceedance or that non-compliance.

What I’m asking is what your expectation was of Mr Occhiuzzi in that situation.---I expected Marcelo Occhiuzzi to do his job and to come up with an outcome.

A solution?---No, I'm not going to use that word.

Why not?---Well, I think it's a word that these days through these hearings is a little bit - - -

Loaded?---No, no. I don't think it's, I don't think it's a popular term now.

10 You told him – and I'm looking towards the bottom of the fifth paragraph – that Mr Occhiuzzi had to respond to the dissatisfaction amongst the councillors.---Regardless of the circumstances around this time of the year, this, this particular point in time, one thing we have to understand, and I certainly understood with 50-odd years' experience in local government, that the councillors were in the driver's seat. They make the decisions. Our job is to implement them. Unless those decisions are questionable or illegal or unlawful or ultra vires, they rely on the advice they get from senior staff. That's how local government works and I didn't expect that to change. Now, in 2012 some councillors arrived who were very different to what I'd experienced over the years, and we had to adjust – cut our cloth, if you like – to accommodate that type of council. Prior to 2012, Canterbury City
20 Council was very harmonious, by and large. There were differences of opinion, of course, but it was controlled by a group of councillors, who were Labor councillors, and it was a caucus-driven council. After 2012 that changed.

And are you saying, then, that as far as you were concerned, if councillors were going to after 2012 take the approach of not relying or accepting the officers' recommendations, then you were prepared to go along with that?
---No, not necessarily at all. No.

30 Were you prepared in those circumstances to require your director of city planning to go along with that?---No. I - - -

To adjust his position to meet that?---I, I never asked the senior staff, particularly the director of planning, because planning is a very imperfect science at the best of times, to do anything that he didn't feel comfortable with. I never did that or with any of the other senior staff. But I did expect them to understand the relationship and the value of the relationship between the senior staff, the leadership team, and the council itself, and particularly the Mayor.

40

But there wasn't a relationship between - - -?---It broke down.

And as far as you were concerned, in that circumstance Mr Occhiuzzi was dispensable?---I didn't think that. I thought Marcelo Occhiuzzi did a very good job, but he was under pressure because he did dig in. He did dig his heels in on certain issues.

You expected him to bend with the demands that were made by Hawatt and Azzi.---No, I didn't expect him to bend at all.

10 What do you mean by saying he dug his heels in?---Well, exactly what it means. He, he, he would be, he would be a little bit defiant, if I can use that term. And all I expected him to do, if he felt strongly enough about any application, put that to council. Put it in a report. What we've got to remember here is the council makes a decision, not the officers. All they can do is recommend. And I said to him on numerous occasions, "If that's
10 how you feel, Marcelo, you put it up to council with those misgivings." It happened in other, with other directors frequently.

In this meeting in late May 2014, the subject of this note, you said, did you, in the second-last paragraph, Mr Occhiuzzi needed to turn things around and that you would be prepared to give him some time to achieve that?---Yes.

20 Now, did you at a meeting with Mr Occhiuzzi, whether it be that meeting or a subsequent meeting, tell him that the renewal of his contract would need to be seriously considered as there was dissatisfaction with his performance, including from Azzi and Hawatt?---Of course. I mean, my role, one of my roles was to assess the performance of the senior staff. They were fixed-term contracts of no more than five years. So if I, if I knew that the
20 councillors were particularly unhappy with the performance of the directors, or the general manager for that matter, of course I'd take that into consideration. I was trying to help the guy. I was trying to warn him that he needed to take into account the feelings of the councillors, knowing that in four years' time – that is, 2016 had the mergers not intervened – there would have been another election and we might have got a different council again.

30 Mr Montague, my question was whether you told Mr Occhiuzzi that the renewal of his contract would need to be seriously considered - - -?---I possibly - - -

- - - because of that dissatisfaction.---I possibly said that, but that would be part of any assessment, performance review or assessment before the contract was renewed.

40 Did Mr Occhiuzzi tell you that council had received a very large volume, I'm sorry, a large volume of very big DAs which took time to process?---Oh, he could have. That wasn't uncommon. We were, we were inundated with applications at about that time. In fact, the number, the value of those applications I think exceeded every council in NSW, except perhaps the City of Sydney. We were absolutely inundated with applications and could, could, could the staff, could the resources he had at his disposal deal with those? That was one of the things I asked him and I said, "If you need more staff, tell me or use outsiders. Bring in consultants", not consultants, but, oh, well, consultant planners, "to help with some of these more straightforward applications."

Can I take you please back to page 4 of Exhibit 54. There is an entry there for 21 July, 2014. Do you see that towards the bottom of the page?---Sorry? Oh, hang on, turn it over.

It should be page 4.---Well, these aren't - - -

Exhibit 54.---Page 1, sorry, now I can see the, no - - -

10 THE COMMISSIONER: Is it the entry for 21 July, '14?---They're not paginated actually.

MR BUCHANAN: That could be right. If you just go to the fourth page, but it's in front of you on the screen. It's probably easier to read there, too. ---Okay, sorry. Yeah, it could be, yeah. Yep. Thank you,

20 This talks about a meeting with Tony Jabbour, J-a-h-b-o-u-r – he was, according to Mr Occhiuzzi, the owner and an architect – yourself; an assessment planner in your team, Stephen Pratt; and Mr Occhiuzzi to discuss the DA for 2-26 Haldon Street, Lakemba.---Yes.

You were briefed beforehand by Mr Occhiuzzi and do you agree that the proposal was excessive in height and could not be supported?---I, I vaguely remember this one and it wasn't uncommon for me to be briefed where there were externals coming in to talk to us.

30 The proposed development exceeded the building height limit and you, Mr Occhiuzzi says, “grew increasingly frustrated that the development could not be supported”. Do you see that? It's the fourth paragraph.---Yes.

Is that right?---Well, it could have been. I mean - - -

Did you ask Mr Occhiuzzi to show on the plans what height would be acceptable?---Well, it sounds like the sort of thing I'd do, to try and, to try and examine it and, and to make it clearer, certainly for me, because as I said I'm not a planner and I don't read plans very well, never have. So, it would have helped all, I think, present at that meeting if we could see what those would look like before we came to any concluded position.

40 You wanted Mr Occhiuzzi to essentially provide a design for the proponent which, in Mr Occhiuzzi's opinion, would be acceptable. Is that right?---No, I don't believe that at all.

What's wrong with that characterisation of what Mr Occhiuzzi describes is happening on that occasion?---Well, I'm not sure what he was trying to describe of that occasion and, and these are contemporaneous notes he's made. I don't know how reliable they are but I, I do recall the meeting. I, I don't know Tony Jabbour at all. I think I met him, of course, but I don't

know him and I'm not familiar with that site now, sitting here, I don't recall exactly where it's located in Haldon Street, but I would have said, because I was there and I was the general manager, "Look, can we see what this is going to look like on a plan?" That's, that's not uncommon either. It didn't mean I was pushing to have it approved.

So, you did that more than once?

MR ANDRONOS: Let him finish.

10

THE WITNESS: Sorry?

MR BUCHANAN: You did that more than once?---I did, yes.

And Mr Occhiuzzi declined?---Well - - -

He said he, in effect, wasn't prepared to be prescriptive, is that fair to say?
---Well, that's his right to do, of course.

20 THE COMMISSIONER: No, but do you agree that that's what he did? Do you recall?---I don't know. I can't recall the meeting.

MR BUCHANAN: But you have agreed that it wasn't unusual, is that right – please tell me if I've got this wrong – for you to ask for Mr Occhiuzzi and/or his staff to provide a design which, in their opinion would be complaint with controls?---No. I wouldn't put it in those terms.

30 MR ANDRONOS: I object to this. I object to this. The actual factual proposition was to identify a height on the document. My friend has elided from that factual proposition to a conclusion that what the witness was doing was asking for a design to be provided. They are completely different things and it is not available to draw the inference from one that it is an admission in relation to the other. My friend should identify what he means by design.

40 MR BUCHANAN: Commissioner, I don't accept, with the greatest respect, Mr Andronos's submission that they're completely different things. In my submission that to get a council planner to draw on plans something different from what has been lodged with council that would comply with the controls as far as that planner is concerned is on any view to redesign. That's my submission.

MR ANDRONOS: Well, that's completely wrong. That is completely wrong. If you have a design and there is a figure of height say, 18 metres - - -

MR MOSES: Can I respectfully suggest that this take place in the absence of the witness.

MR BUCHANAN: I have no objection to that course.

MR ANDRONOS: I have no objection to that course.

THE COMMISSIONER: Do you want to stretch your back outside for a while, Mr Montague?---It's probably an opportune time to do so. Thank you.

10 MR ANDRONOS: If the only parameter of a design is height then, yes, my friend's proposition is correct but if a design is something other than height then what is being done is not redesigning the building but identifying a parameter in the design a change to which would render it acceptable in the view of Mr Occhiuzzi. That is not redesigning the building on any view and the question put in those terms is misleading and any admission in those terms would not assist the Commission.

MR BUCHANAN: With the greatest respect, Mr Andronos has conceded the point that I am trying to make in the question. All he's doing is saying,
20 well, it's not redesigning the whole development it's redesigning part of it. We say that makes that point.

MR ANDRONOS: Well, I'm not conceding the factual point because it's not for me to do so. All I'm saying is that that is not design. That is identifying a parameter. If the question were put in terms of what you were doing is identifying the parameter or asking Mr Occhiuzzi to identify a parameter, a change to which would make it compliant in Mr Occhiuzzi's view in that respect, I'd have no objection to the question but my friend is trying to make a general point and extract a general admission which in my
30 submission is not borne out by the underlying factual proposition that's relied upon.

MR BUCHANAN: Commissioner, my last submission I promise. The witness can deal with this. He either agrees or disagrees. It's not a legal objection with the greatest respect. That is to say, there's no unfairness in the question. The witness understands what's being asked of him. He can either agree or disagree. I'll obviously ask him for reasons and then we'll move on but I will be returning to this subject of course.

40 MR ANDRONOS: I have nothing to add, Commissioner.

THE COMMISSIONER: I'm just looking at the series of questions Mr Buchanan has asked and it has been in the context of using Exhibit 54 that the issue as to height and I think my note of the question is he wanted Mr Occhiuzzi to provide a design that would be acceptable in, you know, in respect of that problem with the height. Now, the point that you have made to me or the submissions you have made, my view is that Mr Buchanan's phrasing of the questions doesn't mean that it's unfair to the witness. It's

being put to him that it's providing a design that would be acceptable because of this problem with the height. It's within those, to use your word, parameters. In that way I can't see how it would be unfair and within those parameters, depending on the answer, et cetera, it may be of assistance to me.

MR ANDRONOS: I don't want to hold the show up, Commissioner.

10 THE COMMISSIONER: All right. Can we deal with this topic before we break for lunch, this particular aspect, or have you - - -

MR BUCHANAN: It might go just a bit over 1 o'clock.

THE COMMISSIONER: Look, what I'll do is I'll bring Mr Montague back in. If we can deal with it and then we'll break for lunch.

MR BUCHANAN: May it please.

20 If you could just look again at page 4 of Exhibit 54 for the entry 21 July, 2014. Can you see the third-last paragraph reads Mr Occhiuzzi saying that he said that, "Compliance with the 18-metre height limit should occur at the boundaries and that we could consider one additional storey over and above the bonus storey on the corner. The GM invited me to draw on the plans what this limit looked like. I balked at this and said I was not prepared to be prescriptive beyond my broad description as stated above." You were inviting or indeed asking Mr Occhiuzzi to demonstrate on the plans what the applicant could do or had to do to bring his proposed development within what could be recommended for approval by Mr Occhiuzzi, weren't you?
30 ---No. I simply wanted to see for myself what it would look like.

And can I suggest that one of the problems with Mr Occhiuzzi in your experience was that he did not show developers how to bring their proposed developments within the controls that applied?---Well, I don't know that. I, I don't know that.

That he simply applied controls, he indicated, and there's an example in front of us, that he was prepared to exercise a discretion but he wasn't going to redesign the proposed developments.---No, well, that was his prerogative.

40 Yes, and that's what happened, wasn't it?---In what respect, which, this one?

Generally, generally. This was a concern that you had with Mr Occhiuzzi, wasn't it?---I think he and the division could have been a bit more helpful with the - - -

Helpful to the developers, to the proponents?---No, not the developers, applicants, whether they're mum and dad or somebody else.

To provide solutions for the proponents where their plans were not compliant with existing controls?---Well, I don't, I don't recall saying that to him, but that, that's, that's, that is my view, that we, that council is there to try and assist all types of stakeholders.

10 And had you ever used the expression or be concerned about a need to bring in a customer focus in the assessment of DAs and the processing of submissions for planning proposals?---I was concerned about our reputation in the community, of course.

No, customer focus.---Yes, well, that's one and the same.

Customers in that case were the applicants, weren't they?---Yes, they, they were, they were part of our customer base.

20 When you offered the job of DCP to Mr Stavis in December of 2014, that solutions-based approach to proposed developments was an approach you indicated to Mr Stavis you wanted him to take?---No. I, I never used the terms solutions.

Right. Did you indicate that you wanted him to ensure that the division was more helpful to applicants than - - -?---More responsive, more responsive, yes.

30 In your contacts with Mr Stavis before offering him the job or director of city planning, did you try to discover whether he would be prepared to take such an approach with development assessment at Canterbury if he were the DCP?---Not in so many words. I emphasised to him, like I did with all the directors that I appointed over the years that we were there to provide service to our community, and that community includes a whole range of stakeholders, not just applicants or developers, if you wish.

But did you sound out Mr Stavis before you appointed him to see whether he was prepared to take an approach which would be more helpful to development proponents?---Not in so many words, no.

40 In any way, shape or form?---I repeat, I was interested to ensure that we provided the best level of service we could to our community.

But you wanted to see more development, didn't you?---Good development, yes.

You wanted to see more development, didn't you?---Good development, yes.

I'm not interested in any other qualification. Did you want to see more or less development or the same? Static, more or less? What did you want?
---I said earlier I thought Canterbury had lagged behind neighbouring areas.

More development is what you wanted, wasn't it?---Yes.

Right. And you weren't going to achieve that if applications were being held back or indeed rejected because of a failure to comply with controls, were you?---Wasn't up to, wasn't up to me.

10

You weren't going to achieve that if applications were held back or refused because of a failure to comply with controls, were you?---If the council didn't approve applications that came forward from the officers, obviously development would be stultified, yes. But that, that wasn't my call.

Mr Montague, you knew that the way the decisions were made was that recommendations were made by the DCP in an officer's report.---Yes.

20

And you say it wasn't up to you. That's exactly the point, isn't it? You wanted a director of city planning who would make recommendations which would lead to the approval of applications for development more - - - ?---Absolutely not.

- - - more so than Mr Occhiuzzi.---Absolutely not.

30

And you wanted to ensure that the assessment process was one which involved facilitating the applicants getting their applications up and not having them held back by strict compliance with controls, is that fair to say?---No. I didn't want them held back because they were languishing on somebody's desk. I'm not a planner, and I expected the director of city planning and his staff to do their job.

And instead of just saying, well, that's not compliant, the control indicates that, you wanted the planners to say, well, this is how you could bring yourself within the controls in a way that we could approve, wasn't it?---No. I, I wanted the planning staff to work with applicants to try and assist them, that's all.

40

If Mr Occhiuzzi had drawn on Mr Armstrong's plans in the way that you asked him to as described in Mr Occhiuzzi's note on the fourth page of Exhibit 54, he would have provided an indication to the architect and the owner as to how the proposed development could be brought in line with what the approval decision maker was likely to give a tick to.---Look, possibly, but I don't know what Mr Jabbour or the applicant, or whoever it was, did with that sketch.

That's not the point, is it? I'm talking about what you wanted Mr Occhiuzzi to do.---It's not about, it's not about me. I'm not the council.

Mr Montague, you saw, didn't you, you could understand that there was a clear conflict of interest between a planner on the one hand indicating to a proponent how to bring their proposed development within controls or within what would be acceptable, on the one hand, and on the other hand the same planner approving or considering for approval the development application for which those plans were put forward.---I think that's a long stretch.

10 Thank you, Commissioner. I apologise for going over time.

THE COMMISSIONER: That's all right. All right, we'll adjourn for lunch and resume at five minutes past 2.00.

LUNCHEON ADJOURNMENT

[1.04pm]