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PATRICIA McDONALD SC
COMMISSIONER

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 17 APRIL, 2018

AT 2.00PM

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

THE COMMISSIONER: Now, before Ms Carpenter comes back to the witness box, an issue has been raised. We're a little bit behind in the witnesses we hope to get through today and we are rather keen to complete Ms Carpenter's evidence today because she has difficulties tomorrow. Now, what I was going to propose is that if we haven't finished her evidence by 4 o'clock that we continue and try and get her evidence finished this afternoon. Now, is that going to present a difficulty for anybody or if somebody needs to take a break say about quarter to 4.00 if there's an indication that we are going to continue and need to make a telephone call either back to chambers or if you've got any family responsibilities we can deal with that, but just at the moment does anybody think there would be a problem if we sit beyond 4?

MR ANDRONOS: Commissioner, there's no problem sitting on beyond 4.00 but I do have some questions for Ms Carpenter and I don't know how long my friend is going to be with her but I apprehend we may have some difficulty getting it in within a reasonable time this afternoon. So I just foreshadow that now. Obviously I don't want to keep people here unnecessarily but I don't want to be cut short in my cross-examination.

THE COMMISSIONER: Oh, no, and look, I wouldn't expect you to do that, you're here looking after Mr Montague and if there are questions to ask you'll have to put it. If it seems that we can't finish by quarter past 4.00 or half past 4.00, we'll have a word with Ms Carpenter and see when we can arrange for her to come back.

MR ANDRONOS: Certainly happy to meet the Commission's convenience and Ms Carpenter's convenience.

THE COMMISSIONER: Okay. Thank you. All right. Ms Carpenter.

<JUDITH CARPENTER, on previous oath [2.06pm]

MR BUCHANAN: Ms Carpenter, have you still got in front of you volume 3 of documents?---I do.

And could I ask you to turn to volume 3, page 26 please. This is part of an information pack commencing at page 19 I think.---Yes, that's correct.

For the position of director (city planning).---Yes.

And page 26 has on it what is described as "Person specifications," but other people might describe it as key criteria?---That's correct.

And there are a number there, but I just wanted to draw your attention to two in particular, the second one, "Change agent, a demonstrated ability to

drive and implement change,” and it goes on to give detail, and underneath that, “Leadership, a strong people manager with demonstrated skills in leading a diverse group of people.” And then there’s a bit more detail after that. Do you see those two items?---I do, yes.

And do you remember those being criteria of some significance in - - -?
---They were key criteria.

- - - in the wash-up in this case?---They were.

10

You placed, or the advertisement was placed and you then started receiving applications. Is that right?---I did, yes.

And if you could go to page 52, please. Is this the first page of an application from Mr Stavis, dated 25 October, 2015?---Yes, it appears to be.

And if I could just ask you to flip through it. There’s a two-page covering letter. Is that right?---That’s correct, yes.

20

And then underneath that, a document entitled Curriculum Vitae, Spiro Stavis, October 2014.---Yes.

And then underneath that commencing at page 59, a document entitled Technical Competence.---That’s correct.

And it addresses also on the next page managerial experience and that’s it. Is that right?---That’s correct, yeah.

30

I thank you. My attention has been drawn to page 57 which is the first page of a document entitled Personal Specifications, which is at the front of page 59 which goes into Technical Competence, but might arguably be part of the Personal Specifications document.---Yes.

I think it’s right to say, isn’t it, that you were not impressed indeed with the very format of this sort of documentation?---The documentation didn’t include any CV, which is unusual, and I had to ask Mr Stavis a number of times to provide one.

40

Oh, I see. Yes. And so that curriculum vitae that commences at page 54, was obtained only after you asked him to provide one?---I wouldn't - - -

If I can just draw your attention to page 53, it's the second page of Mr Stavis' letter, he says, "I have attached a copy of my CV and personal specifications sheet."---I wouldn't really describe that as a CV. I describe that as a, just a commentary on his experience. It doesn't give me any dates. It doesn't give me, it gives me some titles but it doesn't give me any dates. So it, it was a commentary on his experience, rather than what I would expect as a CV.

And in particular, there was nothing in the application letter or generally speaking, in the accompanying documentation, even when the CV was supplied, addressing those two particular key criteria, to which I drew your attention earlier, of the ability to provide leadership, experience and leadership and the ability to be a change agent?---He gave some examples or he, he addressed those in the personal specification document which he, which is set out on page 57 but in comparison to other candidates, he had very limited experience in that area.

10

Now, that's what you told the Commission in the statement you provided at paragraph 12, Mr Stavis did not meet the criteria to be shortlisted?---That's correct.

And can I just ask you to have a look at page 64 of volume three of the documents? This is a copy of an email from you to Mr Montague, sent on the 31st of October, 2014 after the close of applications?---That's correct. Yes.

20 And it mentions one candidate, Mr Manoski, is that right?---That's correct.

It doesn't mention Mr Stavis?---No.

You received, you say in paragraph 10 of your statement, a phone call from Mr Montague. You can't recall exactly when it was, but it was after the ads had been posted and he said, "I need you to tap a few people on the shoulder, including Simon Manoski and Spiro Stavis." And you said words to the effect, "They have already applied"?---That's correct.

30 And by that stage, you had received applications - - -?---I had.

- - - from both candidates, had you?---I had. Yes

On your review of them, however, you concluded that Mr Stavis didn't meet the criteria and you explained what you communicated to Mr Montague on this subject at paragraph 12. You rang him after you had shortlisted the applicants and said, "Okay, these are the people that I have shortlisted. You've mentioned that you are interested in Spiro. I'm not going to include him as he does not meet the criteria on paper"?---That's correct.

40

And Mr Montague said, "Actually, I want him to be included"?---Yes. He did.

Was there any conversation about why he wanted him to be included at that time?---I can't recall whether there was.

Excuse me a minute. Can I just ask you to go to page 65 and 66 of the volume 3 and that's an email from you to Mr Montague, cc to his PA, dated

11 November, 2014 in which you provide draft interview questions.---Ah
hmm. Yes, I did.

And page 66 is the draft you've - - -?---The interview questions.

You've termed them suggested interview questions.---Yes. I did.

Excuse me.---What I provided was a range of questions so that he could
choose a number out of those.

10

And then on 13 November, I'm looking at page 67 of the documents, you
attached copies of shortlist reports and resumes for candidates for the
position and said, 'I must say that I have had a problem with Spiro Stavis as
his resume was completely free form, and although I've asked him to revise
it and reformat it three times (and he has made some attempts), this is the
best I can do with the time available. I hope it suffices, if not, let me know.'
Is that- - - ?---That's correct.

20

And this is the Thursday before the interview date it would appear because
you've referred to 'the candidates are now set up for Monday's
interviews.'?---That's correct, yes.

And thereafter appear in the documents, documents you had prepared, or
your firm had prepared, being shortlist reports on various candidates?---
That's correct.

And they included Mr Stavis?---Yes.

30

That goes through to page 109 of the documents, so, 68 to 109, and then on
page 111 you can see a Canterbury Council document which you might or
might not have seen, being a notice to the members of the interview panel
and attaching material that you'd supplied including a list of suggested
interview questions and interview schedule and reports that had been
prepared by your firm?---I haven't seen this document before.

40

Right. Now if you just excuse me a moment. When did you find out or
what stage, you probably can't remember the date, at what stage did you
find out the membership of the interview panel?---So, probably would've
been about the that I sent the shortlist interviews across, the shortlist reports
across.

And you found out from - - - ?---Or it would've been the time when we
organised the date, actually, I think it would've been.

For the panel?---Because I would've then let the candidates know who was
on the interview panel, yeah, so it would've been some time in that week.

And you've discovered that it was to be three councillors and Mr Montague?---Montague, yes.

And you thought this was unusual?---Well, it was the first time that it had ever happened at Canterbury Council, so in previous director roles the councillors had not been involved. Mr Montague had a view about appointing his own staff, and to my knowledge, at least to my knowledge and in my experience, councillors had not been involved in the interview panel before.

10

THE COMMISSIONER: You said Mr Montague had a particular view as to the appointment of his own staff?---I think he felt that that was his role as GM, and although he might consult councillors, he wouldn't appoint them, he wouldn't consult them to the, they wouldn't influence the appointment. That was certainly the impression that I had had prior.

20

MR BUCHANAN: And what was the nature or the background of people who comprised these panels in addition to the general manager at Canterbury City Council when it was part of a process of selecting a member of senior staff, in your experience?---In my experience, it would've been other directors and probably somebody with a technical, with technical expertise, but I would have to go back and look at the specific makeup of previous - - -

That is the sort of composition that wouldn't have been unusual, though?---It wouldn't have been unusual, and it would've been what I would have expected on this occasion.

30

Were there ever external members of interview panels at Canterbury Council for senior staff?---I don't remember, Mr Buchanan. I don't remember, Mr Buchanan, I don't remember that.

Is it usual for external members of interview panels when senior staff have been selected for local government in New South Wales in your experience?---Certainly there have been occasions where I've sat on interview panels and somebody with technical expertise in that area who is external to council has been involved.

40

And can I ask this, did you have any experience of – I withdraw that. The industry, the local government industry is dominated by men.---Yes.

Would that be fair to say?---Yes.

Was there any policy that you were familiar with of including a woman on the interview panels for local government positions senior staff level in New South Wales?---Certainly for some councils that's absolutely correct, there would be a policy. I'm not conscious if there was a policy at Canterbury but I, you know, I do know that one of the previous directors was a woman and

so she would have been included as part of a, as part of a, a recruitment panel.

And that's considered good policy - - -?---Good practice.

Good practice in terms of equal employment opportunity?---Absolutely.

10 You said that in your experience Canterbury Council had not had a panel composed of all councillors and the general manager before, for senior staff positions. What about other councils?---Sometimes other councils did include councillors and usually they were councillors who might have some expertise in that particular area.

How frequent was it that a panel was composed entirely of councillors and the general manager for a senior staff position?---Oh, it was, it was unusual.

20 Now, look, I do apologise if I'm jumping around, but how was it that your shortlist reports included a report for Mr Stavis, despite your opinion of his unsuitability for the position?---So I was asked to include him.

By?---By Mr Montague.

And is that set out in paragraph 14 of your statement?---Yes, it is, that's correct.

30 You say in paragraph 15, "At this point I became uncomfortable as Stavis definitely was not suitable. Montague went on to say, 'Well, we need to include him.'" Was he responding to something you said?---I think I probably said to him, well, look, I'm not comfortable with including him, he doesn't meet the criteria.

THE COMMISSIONER: Ms Carpenter, the lead-up to compiling the shortlist, do you by yourself or one of your employees interview the candidates?---We do. So every candidate who went forward would have been interviewed. So I interviewed, I interviewed seven candidates, six who were qualified and Mr Stavis in addition, and of those four candidates went forward for shortlist interviews.

40 I'm sorry, the four that went forward - - -?---Forward.

- - - that excluded Mr - - -?---Yes.

- - - Stavis?---Yes.

When you, and did you actually interview Mr Stavis - - -?---I did.

- - - at this early stage?---I did.

And this is where you say that you expressed concern about the set-out of his application and in particular his CV?---Ah, that would have – yes, it probably was after that because I would have interviewed him on the basis of being asked to interview him. It's not unusual sometimes if, if a client for whatever reason feels they need to have a candidate included, and then they can say, well, the consultant actually excluded them and so it kind of lets them off the hook in terms of decision-making. And so initially I thought, well, that's probably what's happening here, but when it went on I became quite uncomfortable.

10

MR BUCHANAN: And was your decision not to shortlist Mr Stavis until Mr Montague asked you to based upon, amongst other things, on your opinion of his suitability including your impression of him in interview? ---That's correct.

THE COMMISSIONER: Can I just ask you, when they apply initially is it usual for referees to be nominated in the application?---Not always. Sometimes people do and sometimes they say referees on request.

20

And was the procedure here that you didn't contact referees immediately but when a candidate got to a certain stage of the process - - -?---That's correct.

- - - then you would contact referees?---So at the point that the candidate is a preferred candidate, then I will ask for usually three, a minimum of three referees, yeah.

MR BUCHANAN: Now, if you could just put a finger on page 66 which is your page of suggested interview questions, and can you then go to page 114 of volume 3?---I have, yes.

30

And there are, this is another document with the same sort of format apart from a border around the questions, and 11 questions rather than 10. If you were to assume that this was a set of questions that was used in the interview, it looks to me, if I've got it right, that the questions numbered 9 and 10 on page 114 of volume 3 were not in your draft. Is that right? ---That's absolutely correct.

40

And those additional questions were about firstly, the relationship between councillors and senior staff, and secondly the operation of the joint regional planning panels?---Yes, that's correct.

But you have told us that essentially you asked Mr Montague to play around with what you'd sent him to satisfy himself about the suggested questions? ---Yes, I did.

So you invited him to make changes?---Yes, I did.

And it's not at all unusual for that to happen?---No.

Would you just excuse me a moment? My attention has been drawn to the fact that there is a relationship between questions 9 in both documents, I don't know if you've got your thumb on them still. It's just that there is an additional sentence in - - - ?---Yes, it's, yes.

- - - the final version?---Yeah.

10 To be effective, local government requires a strong relationship between councillors and senior staff, the statement to that effect. Would you excuse me a moment? Now you, going back to the composition of the interview panel, took the question you had in your mind about it up with Mr Montague and he gave you his explanation that you set out at paragraph 19 of your statement. Is that right?---That's correct. Yes. He did, and he said, 'I thought I'd like to try something different this time.'

Now, the interviews themselves were on 17 November 2014 and you were present as an observer?---I was, yes.

20 This was at council chambers?---This was at council chambers, yes.

Did you see what it was that the interview panel members had with them by way of papers?---So they would've had, from memory, they had the shortlist reports and I took with me a candidate assessment sheet which had the questions in it and I took enough for each of the panel members, for each of the candidates.

Would you excuse me a moment?---Mmm.

30 Could I just ask you to go to volume 3, page 181, strictly speaking, page 180 over to page 181. This would appear to be a document setting out the interview schedule, the panel members- - -?---That's correct.

- - - the interview questions. But they appear to be a copy obtained from a set of papers which have been spiral bound.---None of the papers that took were spiral bound. They were clipped with a staple.

But you would expect - - -?---And they weren't in this format.

40 But you would expect that council would provide the panel members with papers for the exercise and it wouldn't surprise you in the slightest if they were spiral bound?---That's correct. Yep.

What would you say to the proposition that a candidate for a senior staff position be supplied, by an interview panel member, with a copy of the suggested interview questions before the interview took place and no other candidate being given that opportunity?---I would find that quite distressing. It would give that particular candidate an advantage over the other

candidates and would help them prepare answers. Whereas the other candidates were expected to answer you know, on their feet, so to speak, this person would have had opportunity to prepare answers prior.

And what would that mean about the value of the interview panel process at the end of the day?---Well, it would have negated the value of the, the interview process, I would have thought.

Well, certainly skewed it?---It would certainly have skewed it.

10

As far as you know, I withdraw that. Before this investigation took place, were you expecting interview questions to be provided in advance to any candidates?---No. I wasn't. Sometimes councils decide, or not councils, but sometimes council, you know, a, a client might decide that the candidates have to questions before they go in to interview but then that's provided to all, all candidates. But I wouldn't have expected one candidate to have them and not others.

20

In your statement you set out some criticisms of the interview process. Could you just tell us now, from your own memory, of what it was like? ---It was probably one of the more dysfunctional interview processes I've ever been through. The councillors chose not to turn off mobile phones and so they were interrupted by messages and electronic, you know, emails and things coming in, which some of the answered. They, very quickly, departed from the set questions. So, there had been an agreement on who would ask what questions right at the beginning when we first convened, that just went out the window. They were, they didn't seem to be particularly interested in finding out about the, the experience of the candidates. They seemed much more interested in whether or not the candidates would do what the general manager said and that was a question that came up a number of times, "Will you do what the general manager tells you to do?"

30

Who was asking that?---It would have either been Hawatt or Azzi.

And when you say either/or, do you mean both of them did depending on the candidate or- -?---I can't remember the, I can't remember the answer to that question.

40

Why do you say either of them?---Because both of them became quite aggressive to some, to some of the candidates, not to all of the candidates. So the first couple of interviews were, were quite adversarial as opposed to you know, proper interview. And certainly, that largely came from those two councillors.

I'll come to Mr Stavis in a moment but how were, I'll withdraw that. You had formed a view already as to the relative strengths of the candidates, I

assume.---I had. Yes. But each of those candidates could have done the job.

Right. One of the candidates was a woman called Karen Jones.---That's correct.

She was a particularly strong candidate on - - -?---She was.

10 - - - just on paper?---On paper, but she performed well in interview too.

How was she treated in the interview?---She was treated quite poorly.

In what way?---A very adversarial attitude to questions, a disregard, disrespect would be how I would describe it.

And coming from whom?---Coming from Hawatt and, and Azzi, yeah.

20 Had you met either of those gentlemen before 17 November?---I had never, no, I had not.

But obviously you were introduced to them and you knew who they were after they were introduced to you at the outset of the interview panel process?---I knew that they were two councillors, yes.

30 The assessment forms, were they used?---I would say sporadically and I would say inappropriately. So they, as soon as they moved away from the questions there was no way that they could indicate whether or not they were assessing those particular questions because they hadn't asked them. So they weren't used very effectively at all.

And what was the function of the assessment forms in the ordinary course? ---It was to give some form to the interview and also to help the people who were on the interview panels make a decision as to whether or not this candidate met the criteria. So there was a rating scale against each of the questions and the councillors at the end of the time were asked to give their ratings against that.

40 And I think you, paragraph 25 of your statement, have told us, have told the Commission that you threw the candidates' reports out as you felt they were useless?---I did.

And you were disgusted by the process.---I was.

The candidates' reports weren't of any use in a decision-making, for a decision-making process as to the ranking of the candidates?---They were not, at all.

Just prior to that, paragraph 24 in your statement, you say, "As a result of observing the recruitment process, Jones was the best, however she got a low score from councillors." How do you know she got a low score?
---Because they discussed her, her candidature and indicated that they didn't think that she made the grade.

10 And you could be biased. Why did you think Ms Jones was the best candidate, taking into account everything that you knew at that stage, that is to say paper, reputation and also performance in the interview?---Sorry, would you like to repeat the question?

Why did you think that she was the best candidate, why have you told us that?---Well, it was probably retrospect, so at the end of the recruitment process, after all of the candidates had been interviewed, my own view was that her performance was the strongest and that she, both on paper but in the way that she articulated, you know, answers to questions or the way she presented herself in interview, she was strongest.

20 And did she meet the key criteria that we referred to earlier?---She did.
Particularly those two - - -?---She did.

- - - criteria to which I took you?---Yes.

And she wasn't the only candidate who did?---No, she did not, the other three, three of the other candidates met those criteria very well as well.

Mr Stavis in your opinion?---No.

30 Why not?---So Mr Stavis had not taken any, had not taken any organisation through significant change or any part of an organisation through significant change, he couldn't demonstrate that in the one-on-one interview I had with him, I'm trying to remember now, so the other was leadership, he had, he had only led a very small team and a small team of planners and in his own business he had, he'd really not worked with a broad team at all, he'd had one or two people who as I understood had come in and out of the business, but who had not been part of a, of a cohesive team. But I'm, you know.

40 THE COMMISSIONER: Can I just ask, Ms Carpenter?---Yes.

Paragraph 21 of your statement, you talk about the interviews but you distinguish between the councillors being rude and aggressive?---Yes.

How were they rude to Mr Connell and Ms Bishop?---It was probably more than the tone of the questions, the aggressiveness of the questions, the fact that they continued to text messages, answer phones, that was entirely inappropriate and, I thought, very rude.

MR BUCHANAN: In paragraph 26 of your statement you say, 'After the interviews, the councillors supported Stavis.' If I could just pause there, which councillors are you referring to?---There I'm referring to Councillor Hawatt and Councillor Azzi.

And how did you know they supported Stavis?---Because they indicated verbally that they did.

10 Was this in the absence of the candidates, or - - - ?---This was in the absence of the candidates.

Was it after the interviews?---After the interview process.

And you say that you sourced information from the referees nominated by Mr Stavis, but there was a problem with those referees, the length of time since they had worked with him. Is that right?---That's correct.

It was about 10 years on average?---Yes. Yes.

20 And he has, he was at that time working for Botany Council?---He was, yes.

Neither of the referees that he'd nominated were from Botany Council? ---No, they weren't.

And you go on to say a bit further down in that paragraph, 'Although I did seek a client referee.' What was a client referee?---So, Mr Stavis had run his own business for a period of time and given the fact that he hadn't reported to anybody during that time, it seemed entirely appropriate that one of the referees might be somebody who had worked with him as a client, or for whom he had worked, who would give some observation about his work as a planner.

30

But there wasn't such a referee obtained at that stage, was there?---I don't think so. I honestly can't remember, but I don't think so.

You tell us at paragraph 27 of your statement that you told Mr Montague about the difficulty with Mr Stavis' referees, as to there being a 10 year gap, but you can't recall what his response was to you giving him that advice? ---No.

40

Then you refer to an email dated 26 November, if you could turn to page 237 of volume 3, please. And do you see that that's an email conversation where you're providing advice to Mr Montague on 26 November 2014 and he acknowledges it, 'many thanks'?---Yes.

What was the gist of that advice that you provided him in that email, if you could summarise it for us, please?---I was trying to set out – so, at that time it became apparent that he was - - -

He, Mr Montague?---He, Mr Montague, was weighing up between the two candidates, and I wanted to set out for him the differences between the two candidates so that he was really clear about the decision that he was going to make.

And the two candidates were Karen Jones and Spiro Stavis?---Yes. That's correct.

10 And you made a number of points in that advice that you have already told us that you were making from time to time, particularly about Mr Stavis but, in particular, that Ms Jones was able to meet the criteria for selection of the candidate for that position?---Yes.

Quite well?---Yes.

20 You go over, if I can go over the page in the reproduction of this email advice about Mr Stavis, and you say that as it's reproduced at the top of page 238 of volume 3, 'Jim, it would seem to me that there is no real comparison, given Spiro's lack of management and organisational experience, it would be a very surprising move to appoint him, it would fly in the face of a merit selection process as set out in the 1993 Act, and I think it would open council to questions from the office of local government, particularly since the planning role is such a sensitive one.' You also go on to say, 'My concern is that you would be setting him up for failure.'? ---Mmm.

30 The merit selection process as set out in the 1993 Act, what was it that you had in mind there?---Well, my - - -

If you could just describe it to the Commission?---So, the Act sets out the decision making process for senior staff and that resides with the general manager. It also sets out that it has to be a merit based appointment, and I was reminding Jim of that because it seemed to me that he was getting a bit lost in the process and it was clear by that stage that he was under considerable pressure, and I wanted to remind him that under the Act, he had – it was a merit based appointment that he needed to make, and also, that he had the responsibility for making the decision.

40 At that stage, did you have any thoughts as to the source or sources of the pressure that you believed him to be under?---Yes, I did.

And what was that?---And that would have been the two councillors who were on the interview panel, that would be my observation.

Was there anything else to explain Mr Montague's desire, to use a neutral term, to have Mr Stavis including in the shortlist of candidates and then to

be seriously considering him against a candidate like Ms Jones?---Was I aware of anything?

Yes?---No, I wasn't. No. And it seemed to me to be completely out of character.

For?---For Mr Montague to do that.

10 What do you mean by that? You're taking into account your - - - ?---My experience of him in the past is that, was, that he was a very sensible decision maker, that he had made decisions, that the kind of recruitment decisions that he had made in the past had been based on merit, that he had taken advice and that he had not felt the need to include councillors previously. So all of that was different to what I was experiencing in this particular process.

20 Was there anything to indicate that the mayor was a source of pressure to have Mr Stavis included in the mix?---No. It seemed to me that the mayor was included more as a figurehead, he didn't seem to be deeply involved in the recruitment process at all and seemed largely disinterested.

THE COMMISSIONER: Ms Carpenter, you spoke after the interview the two councillors indicated that Mr Stavis was their preferred candidate?
---Yes.

And then on 26 November, you're setting out a comparison between Karen Jones and Mr Stavis?---Yes.

30 By 26, was it identified that those two, in a sense, were the finalists?---Yes, it was. I'm trying to go back and remember but it's quite confusing. Karen Jones was the preferred candidate.

When you say preferred, was that preferred by - - - ?---By Mr Montague, and so the reference checking had been done in relation to her. He also had asked me to reference check Spiro and he asked me to reference check Simon Manoski because they were also kind of like a 1, 2, 3 in a candidate list. Sorry, I haven't answered your question.

40 No, that's fine. After the interview when the councillors indicated their preference for Mr Stavis - - - ?---Yes.

- - - did Mr Montague then indicate that he thought Ms Jones was the preferred candidate?---I think he was, I don't remember the conversation around that but my impression, and it's an impression only, is that he was relatively non-committal.

MR BUCHANAN: Ms Jones, I've just been reminded there's a passage in your advice to Mr Montague in your email of 26 November set out on page

238 of volume 3. After telling Mr Montague that if he appoints Mr Stavis he'd be setting up for failure even before he started, you said, 'He will be dealing with entrenched and difficult staff and has no experience in this.' Do you have a recollection as to where you got the idea from that he'd be dealing with entrenched and difficult staff?---I think that that would have come from Mr Montague in his original briefing.

10 Were you acquainted with the planning assessment section of, or land use strategy sections of the - - -?---I was not. No.
- - - division?---No, I was not. So, so that would have come from a briefing from Mr Montague.

Thank you. Now, can I take you please, to another volume, volume 4 of the documents? You can sort of put volume 3 that the bottom, in case you're asked about documents in there by somebody else. And if you could turn, after the index at the front, to page one? Have you found that?---I have.

20 It's an email from you to Mr Montague of 12 December, 2014. You'd had a conversation with him the day before and you say, "Please find attached my letter of concern in relation to the appointment of Spiro Stavis as director (city planning). Let me know if you need any changes made to it." Why did you send that letter?---Firstly, I was concerned about the process. I was very concerned that Mr Stavis had been appointed because I thought it was not a merit based appointment. I felt sad that the council had made that decision because I had a lot of, in a sense, a lot of affection for the council. I had worked for it for a long time. I had also begun to hear around the industry that, and, and I can't kind of put my finger on anything in particular, but I had begun to hear rumours about Mr Stavis around the
30 industry, which also made me very uncomfortable. I think the other thing was, I really didn't want my name associated with the appointment because I didn't think it was anything that was ever going to, it, it just was not a good appointment.

You had a professional reputation to protect?---I had professional reputation. Yes.

40 Can I just clarify, 12 December, it might have been that Mr Montague told you that he was considering appointing Mr Stavis, rather than him having been appointed. Is that possible?---I'm trying to remember the sequence.

Do you remember the conversation to which you refer in the email?---Yes. Yep. So, he - - -

Do you remember what Mr Montague told you?---He would have told me that he would have been, he was going to appoint Spiro. Yep.

In your letter, which is just two pages, pages two to three, you set out pretty much what you've told us as to the deficiencies in his skill set and experience and your concerns about the process. You say in the third paragraph on page two, "I was subsequently surprised and concerned when you indicated that councillors on the interview panel had insisted that Spiro was to be a shortlisted candidate." That was something that Mr Montague had told you?---Yes. That's correct. That he was to be a shortlisted candidate, yes.

- 10 You reiterated that Mr Stavis' appointment couldn't be considered to be a merit based appointment. Over the page, you expressed your concerns about the interview process and then you said, "My concern has been heightened by recent conversations with others, that expressed serious reservations about Mr Stavis' personal integrity." Next paragraph, "Other candidates demonstrated greater skills and experience and behaviours than Mr Stavis." Then you went on to say, "I share your concern in this matter." What concern of Mr Montague's was that, that you were referring to, if you remember?---Mr Montague was clear about the fact that there were other candidates who had stronger claims to the role that Mr Stavis and had expressed that. He mentioned Karen Jones and then Simon Manovski.
- 20

Now, I just want to cover it off, but in the email you did say to Mr Montague, "Let me know if you need any changes made to this letter." ---Mmm.

- Why were you giving him the opportunity to make changes to it or what did you intend to provide, what opportunity were you trying to provide him by saying that?---I was hoping that he would respond in a way which, which would lead him to make a sensible decision and in terms of that, hmm,
- 30 sorry, whereabouts is it, is it in an email?

This is, sorry, the email - - -?---Yes, sorry.

- - - on page 1 - - -?---Yeah.

- - - dated 12 December, 2014.---Yeah. I think I was concerned initially that some of my language might have been strong and whether it needed to be modified or not.

- 40 Now, I misled you and I must apologise for that. The offer of employment to Mr Stavis was made on 8 December and so - - -?---So it would have been - - -

- - - it's entirely likely that - - -?---Yeah.

- - - your recollection was correct.---Yes. Okay.

You go on in your statement to say in paragraph 30, bottom of page 7, that the result of councillors unduly influencing the recruitment process was that the weakest of the candidates, Mr Stavis, had been shortlisted, even though he was not suitable. You do say he interviewed favourably in comparison to other candidates, this is in paragraph 31 - - -?---Ah hmm.

- - - "As the questioning was not as robust."---Ah hmm.

10 He was treated somewhat differently?---He was treated differently. It was a very different atmosphere for his interview.

Can I then take you to volume 4, page 4, and there's a letter that's from Mr Montague that his PA sent you by email of 15 December, a one-page letter - - -?---Ah hmm.

- - - in which it would appear Mr Montague was acknowledging - - -?---Yes.

- - - the validity of your concerns.---Yes.

20 Is that how you read it?---That's absolutely how I read it.

And he went on to say, "It's my intention to bring your letter to the attention of the mayor and council with a view to reassess Mr Stavis's suitability for the role. In order to assist me in bringing this matter to a satisfactory conclusion I'd be grateful if you could immediately undertake further reference checks with Mr Stavis's previous local government employers, the City of Botany Bay and Strathfield Council." Is that something you and Mr Montague had discussed before you got this letter?---I don't remember that, but it's entirely possible that we had discussed it. I think what I would have said, and, and this is, you know, I'm just trying to kind of second-guess the kind of conversation I might have had with him, was we need to go back to people who have more recent experience of his work, and that includes the City of Botany Bay where he is now and his previous experience at Strathfield. What, can I ask what date this is, 15 December?

30

Yes.---Yeah.

The email is the 15th and so is the - - -?---The letter, yeah.

40 The letter.

THE COMMISSIONER: When you were dealing with Mr Stavis up to his appointment - - -?---Mmm.

- - - did you ever suggest to him with the referees that he put forward somebody from either his current - - -?---I did, yes, yes.

So you did suggest a more recent - - -?---I said to him, “These referees are well over 10 years old, it would be very useful if we could have recent referees.” The one referee he did provide which was recent was from Strathfield Council, was from a young junior planner - - -

Yes?--- - - - that he had worked with, and I didn’t feel that that was a particularly robust reference.

10 MR BUCHANAN: Inasmuch as it didn’t come from a supervisor - - -?
---No.

- - - with knowledge of him?---No.

If you could go then to page 6 of volume 4 of the documents, that’s an email in which you did what we’ve all done and intended to attach documents, a document, but then in the next email - - -?---Yes.

- - - you did attach it.---Yes.

20 You described in the first email of 16 December at page 6 that particular referee as very straight up and down, very apolitical, and then you attributed a view to her and thereafter appear the reference is, it appears the reference checked document at pages 8-9, if I could just remind us all this document is the subject of an order that Commissioner made yesterday.

THE COMMISSIONER: Under section 112, yes.

MR BUCHANAN: That's correct?---Which means, sorry? That’s fine, I don’t need to know.

30 The contents of it can’t be published?---Fabulous, thank you.

You already knew Ms Warton, W-a-r-t-o-n?---Yes, I did. So, I had been involved in her recruitment at Botany Council.

And then on page 10 of this volume, an email from you to Mr Montague attaching, I'm sorry, setting out a reference that you reproduced from a conversation with Mr Falato?---That's correct.

40 At Strathfield?---That's correct.

And he had been or was, sorry, then the group manager (planning)?---And Mr Stavis had reported to him.

Obviously these two references were quite adverse?---They were.

What impact on Mr Montague would you have expected them to have?---I would have hoped that it would have made him rethink his appointment and change his mind. I think - - -

Yes?---I'm just trying to remember, but I think at this point I suggested that he actually abort the whole recruitment process and start again because I thought it was badly compromised at this point.

10 And if you could just tell us, do you know, would that have been in a telephone conversation, face to face?---It would have been a telephone conversation, yeah.

Now, paragraph 36 of your statement, you became aware that Mr Montague offered the position to Stavis on or around 9, and I just take you to paragraph 37. It had come out about this time through conversation with Montague regarding Jones, quote, 'we cannot work with her'. How? Who, from whom had that come out?---So from memory that was a comment that the councillors had made from Mr Montague.

20 How did you know that?---Because he told me.

And you go on to say, 'I was informed that the councillors did not want to work with a woman.'?---Yeah.

Again, Mr Montague informed you? Is that right?---I think it was Mr Montague. I don't remember having any contact with other people in the organisation at this time so it would have, I'm assuming, been Mr Montague.

30 Then on Christmas Day of 2014 - - - ?---Mmm hmm.

- - - at 1.30 in the morning, you received a text from Mr Montague which said something like, 'All hell is breaking loose, please ring me in the morning.' You rang him later that day?---I did, yes.

And you said to him words to the effect, 'My reputation is at stake.' Is that right? Looking at the third line of paragraph 38?---I may well have, I don't recall that conversation in any depth at all. I remember the text message coming in, I remember having a conversation with him in the morning, that morning.

40 Would you just tell us now what you remember of that telephone conversation?---So he was very upset and distressed, he felt – all I could remember was that he was very upset and distressed.

About what?---About the position that he had placed himself in. That, that was my interpretation of it.

And what position was that?---That he was caught between appointing Stavis and, in a sense, aborting the process or not appointing Stavis. I, that was the sense that I had, that he was caught between the two. And certainly, I mean, I may well have expressed a concern about my own reputation because I felt that it was just such a poor appointment.

You've reproduced, in inverted commas, words, "My biggest regret was having the councillors on the panel."---Ah hmm.

10 Those plainly the very words themselves you attribute to Mr Montague?
---Montague, yes.

And do you recall now that that's what he said or words to that effect, that he expressed regret?---He did express, yes, he did. He expressed regret about having them on the, on the panel.

Now, subsequently, paragraph 39 of your statement, you say you found out that Stavis had been appointed and you rang Mr Montague, you can't recall when it was. You said words to the effect, "What's going on?" And your
20 recollection was that he said he'd done a deal and you've attributed the words to the effect of, "A deal had been done."---So it probably would have been I think towards the end of January or maybe even the beginning of February and I heard, quite by happenchance, that Stavis had started as director. And - - -

Started work?---Started work and had been, had been appointed and had started work and I was really, I was astonished because my understanding was that he was going to go out to market again with another consultant early in the new year and start the process again. So, I was really surprised
30 that he had appointed Stavis. And, and I felt really cross about it and I rang him and said you know, "What's going on? Have you appointed him?" And he said, "Oh, yeah." He said, " You know, I've, basically, I've done the deal." Now, I didn't know what the deal was but those words look about right.

You've attributed to him words to the effect, "I've been able to resolve the situation by giving the councillors what they wanted, which was the appointment of Spiro Stavis to the role of director of planning." At the time you made your statement, I take it, that was what you were satisfied you had
40 recollection that he said?---That's correct. Yep.

And then you say Montague indicated that he felt he could control the situation by managing Stavis closely.---That's right.

Do you recall him saying something to that effect?---Yes. He said, "I'll keep an eye on him." You know, "I'll make sure I manage him closely."

Thank you. Thank you, Commissioner.

THE COMMISSIONER: Sorry, just before Mr Moses starts, can I just ask, in paragraph 40 of your statement, you talk about, "Jones is a friend of Montague's daughter." That's Karen Jones?---That's correct. Yes. So at the end of the interview process and about the time that he offered, he made an offer of the role to Karen Jones, he, either he or Karen, I can't remember which one it was, told me that, that Karen was a friend of Jim Montague's daughter.

10

But from paragraph 40, your recollection is Mr Montague actually offered the job to Karen Jones or was going - - -?---Yes. He did. He, he initially offered the job to Karen Jones and the councillors then, were very upset about that. There as some kind of, I don't know, they got, they, my impression was that they, I don't know whether the word threatened is correct, but that they were putting pressure on Mr Montague to rescind the offer and to offer the role to Spiro.

20

And the timing of that, was that leading up to your letter of concern that was dated 12 December?---Yes. So that would've been sometime between the end of November and that letter, yes.

All right. Mr Moses?

MR MOSES: Thank you, Commissioner. Ms Carpenter, can I ask that you go to the brief of evidence, volume 3? It's page 19, the director (city planning) information pack?---What page was it, sorry?

30

So page 19, Ms Carpenter, 1-9?---I have it.

This is the document which was sent out to applications who indicated an interest in applying for the position?---That's correct.

And if you go to the document at page 25, it sets out the key responsibilities for the director of city planning, correct?---Yes.

And as I read the document, persons who wish to apply for the position, they are to send inquiries through to you and applications, that's at page 30 of the document? Is that correct?---That's correct, yes.

40

Am I right in understanding that there was no, as it were, formal application form for applicants to fill in but rather, they were to send in a document which addressed the criteria for the position? Is that right?---That's correct. So, I probably would've asked them for – I certainly would've asked them for CV and probably asked them for a letter, a covering letter which kind of met, set out their skills against the criteria that we identified.

Thank you. I'll come back to the issue of an application form in a moment. If you then go to page 101 of volume 3, this is the shortlist report on Mr Stavis which I think your office prepared or you prepared?---Yes.

10 If you go to page 102, it's the third paragraph and it's the second sentence. After referring to Mr Stavis' time as a senior planner within Botany City Bay Council, it states that prior to this role, Spiro was a senior planner with Strathfield Council between August 2012 and August 2014 and was 2IC to the group manager, and acted as group manager planning and environment on several occasions. Do you see that?---I do.

Were you aware that Mr Stavis had actually successfully applied for the role of team leader, development assessment operations at Canterbury Council in August of 2013?---I became aware of that subsequent.

You mean subsequent to - - - ?---To his application.

20 Subsequent to him being employed or subsequent to his application?--- Subsequent to him being employed, I think.

And how did you become aware of that, ma'am?---I don't remember how I became aware of that, Mr Moses, I'm sorry.

Okay, thank you. Can we just go back then to the brief of evidence volume 3 when I asked you a question about application forms, and I think you said there was no application form per se. Is that right?---That's correct.

30 Going back to page 30, do you think, in your experience as a recruiter for local government, that it perhaps would be, on reflection, appropriate for application forms to be filled out by applicants in which they disclose, for instance, whether they have previously applied for a role within the council which they're seeking employment?---It could, yes.

40 Because the reason behind that would be for you to undertake some due diligence of the people they'd interviewed, that candidate, less than a year ago or a year ago to ascertain why they had formed the view that he couldn't be employed even at that stage as a team leader within the council? Is that correct?---Yes.

THE COMMISSIONER: Mr Moses, could you just tell me again the position that Mr Stavis applied for in August 2013?

MR MOSES: Yes. Yes, Commissioner.

THE COMMISSIONER: What was the actual title?

MR MOSES: I will, Commissioner. So it's team leader, development assessment operations at Canterbury Council and, Commissioner, there's a document dated 15 August 2013 called an applicant evaluation form which I understand is not on the brief of evidence from what we've been able to ascertain so far, but we will provide it to solicitor assisting the Commission overnight, because it may lead to some further inquiries by the Commission.

THE COMMISSIONER: Thank you.

10

MR MOSES: May it please the Commission, I have no further questions of Ms Carpenter. Thank you.

THE COMMISSIONER: Mr Neil, any questions?

MR NEIL: No, thank you, Commissioner.

THE COMMISSIONER: Mr Andronos, any questions?

20 MR ANDRONOS: Yes, Commissioner.

Ms Carpenter, I appear for Mr Montague. I think you've said already today in answer to some questions from Counsel Assisting, a little bit about your background, you have many years' experience in local government recruitment, amongst other things, and that part of your role involves identifying potential candidates for positions which become available. That's correct?---That's correct.

30 And you are retained by the putative employer in each case, in this case, Canterbury City Council. That's right?---(No Audible Reply)

And the extent of your role in relation to any particular placement can vary, can't it?---It can, but this was an end-to-end recruitment.

End-to-end. Because sometimes employers will seek your input into the decision as to whom to hire. That's right, isn't it?---They may ask me, but ultimately it's a decision for them.

It's a decision for them.---Yeah.

40

But you provide in effect the benefit of your professional expertise?---I do.

And you express an opinion?---I do, when asked.

But sometimes, sometimes they don't seek your input in that way. Is that also correct?---That's true.

They just ask you to present the candidates and then they take it from there. Is that correct?---Sometimes they do, yes.

Yes. Now, you've given some evidence about your understanding of the requirement under the Local Government Act that certain appointments would be merit-based appointments, and you consider you have a reasonable understanding of, of what those requirements are. Is that right?
---I'm not quite sure I understand your question.

10

Well, you have a view as to what factors are taken into account in assessing whether a particular candidate is the most meritorious candidate for a particular position?---Yes.

20

And without wanting to quiz you on the legislation, Ms Carpenter, I'll just ran past you, and you can just take my word for this, this comes from section 349 of the Local Government Act, if whoever's responsible for the screen wants to get it up on the screen, it's 349(2). I'll just run this past you, that the merit of a person eligible for appointment to a position is determined according to, A, the nature of the duties of the position, okay, so far so good, and B, the abilities, qualifications, experience and standard of work performance of those persons relevant to those duties. Now, those, you'll agree with me, and I'm not asking you questions of statutory construction, but there are four criteria there, aren't there, abilities, qualifications, experience and standard of work performance and they're all
- - -

THE COMMISSIONER: Could I just stop you.

30

MR ANDRONOS: Yes.

THE COMMISSIONER: Can we get that up on the screen or, or try?

MR BUCHANAN: I can pass up a copy for you, Commissioner, anyway.

THE COMMISSIONER: I'm just wondering as a matter of fairness whether we should provide - - -

40

THE WITNESS: That's fine, Commissioner.

THE COMMISSIONER: If you can provide a copy to Ms Carpenter.

MR ANDRONOS: I can say it's not going to be a quiz on the legislation.

THE COMMISSIONER: No, no.

MR ANDRONOS: I might not come off to well in comparison.

THE WITNESS: I certainly wouldn't come off too well.

MR ANDRONOS: So where were we. Those four criteria, now, those four criteria aren't expressed in the abstract, are they, they're expressed in relation to the relevance of those criteria to those particular duties. That's right, isn't it?---That's correct, yeah. Well, that's my understanding of it, yeah.

10 Yes, of course. Well, I'm not here to challenge that. And because there are a number of criteria, you could well have a situation where a candidate will excel in respect of one criteria but not do so well in relation to another. That's right, isn't it?---Yes, that's correct.

And that may in fact be a fairly commonplace occurrence, mightn't it?
---Generally if you were going to put a candidate forward you would have, on balance, more merit-based criteria than not.

20 Yes. So one candidate might have terrific experience but technically might not be so good. Another person might have great technical skills but not have a lot of experience. That's - - -?---That's possible.

That's possible.---Yeah.

And the decision-maker really has to make an assessment by taking all of those into account and deciding who overall has the most merit. That's right, isn't it?---That's, yes.

30 And that is an evaluative process. It's not simply a matter of ticking boxes. That's right, isn't it?---Ah hmm.

Could you please give a verbal answer.---Yes.

So as part of that evaluative process, this involves – and please tell me whether or not you agree with this proposition – it's not just looking at the objective level of achievement but making a subjective assessment of how relevant that achievement is to the duties of the position in question?---Yes, that's correct.

40 Yes. And that's one of the reasons you're often invited to participate in interviews, so that you can provide the benefit of your professional expertise in this regard?---Yes.

Because it is ultimately a matter of opinion, isn't it?---No, I don't agree. I believe that there are some quite clear criteria that are the basis and that those other, more subjective ones come on top of the base ones. So if a person doesn't have good technical skills, they wouldn't be in the mix in the first place. If they don't have good, strong leadership skills, they're not in

the mix in the first place. So those evaluative things would sit on top of some quite clear objective criteria.

Yes, that's right. I'm certainly agreeing with the proposition you put, because isn't this the case, that once you have established a certain base level of achievement in relation to each of the criteria, after that it becomes an evaluation by measuring the criteria and forming a view as to the relevance of a particular criterion to the ultimate decision? Sorry, I'll withdraw that. It's not relevant to the criterion. I'll start that again. If you start with that all candidates in order to be considered – and let's just put this into the context of shortlisting candidates – have to have a certain basic level of achievement in relation to each criterion, sorry, can you hear me? ---I can't hear you very well.

Sorry, I'll try and, I'll, I'll try and - - -?---That's better. Yeah.

- - - get a little closer to the mic. Do I need to repeat that question or - - -? ---Can you start that one again? Thank you.

20 Each candidate – let's assume we're talking about the shortlisting process – has to demonstrate to your satisfaction a certain level of achievement in relation to each criterion. That's correct?---Yes.

But then when you're going to the next stage and assessing which candidate is ultimately going to be offered a position, once they're on a same playing field of having achieved a certain basic level of competence, then it becomes an evaluative matter. You agree with that?---I agree with that.

30 And that's where opinions come into play.---Yeah.

That's where subjective assessment comes into play.---Correct.

And that's where reasonable minds may differ as to whether or not one type of experience might be better than another type of technical expertise.---I wouldn't agree with the technical expertise. If you had said where one kind of experience might differ from another, yes, but in terms of technical experience I think there's absolutely got to be a base level of experience, and my contention is that Mr Spiro did not have that base level of expertise.

40 We're not talking about Mr Stavits at the moment.---Mr Stavits.

That's all right. We know who you mean, Ms Carpenter. Now, another question, which I think I might also put at the abstract level, is these matters of opinion are not just matters of different points of view but they're predictive, aren't they?---In what respect?

Well, they're predictive of who is likely to do the best job in the position. That's the purpose of the interview process, isn't it?---Partly, but past performance is probably the best predictor of future performance.

Yes. But its relevance is only as a predictor, isn't it?---Yes.

Because nobody can predict the future with any certainty, that's the case, isn't it?---Was that a rhetorical question?

10 I do need a response?---Sorry, I think it's very hard to predict the future.

Yes. Now, when you first assess applicants to produce a shortlist, and I'm talking about your practice rather than this particular occasion, you do so on the basis of the applicants CVs and interviews as well, don't you?

---Probably three things. The letter of application which links their experience to the specific criteria that I'm looking for, their CV which is their past experience and then the interview process.

20 Yes. Well, doesn't the letter of application only show you how good they are at writing letters of application?---Not necessarily, no.

But it's a specific skill that could be taught?---I'm not sure that I agree with that.

But you accept that that is a view that someone in the position of hiring staff might reasonably form? Do you accept that?---I think that the letter of offer, together with the CV, gives you a consistent picture. Is that what you're asking?

30 Well, no, that's not – my question is directed to a different proposition. I'll just come out with the proposition. How well somebody frames a letter and how well they put together their CV isn't conclusive of how good they would be at the job or appointment?---I absolutely agree, yeah.

Now, if we could turn to the particular events of late 2014, in producing the shortlist for the position of director of city planning for Canterbury City Council, you undertook a combination of CV review and in person and telephone interviews. That's right, isn't it?---Yes, I think, yes.

40 I think Mr Connell interviewed by telephone?---Yes, that's correct.

And the interviews were an important part of the process because you rely on them to provide information that you can't get from simply reviewing a CV?---Yeah.

A person may be great on paper but awful in real life. A person may be average on paper but when you meet them face to face, they're Stephen

Hawking and Oscar Wilde rolled into one?---Very rarely, but I take your point.

The purpose of providing a shortlist rather than simply putting up a single person is to give the punitive employer a choice?---Yes.

And that's on the basis that you would ordinarily have formed the view that everybody on the shortlist is appropriately qualified and, from there, the evaluative process we discussed earlier - - - ?---Yes.

10

- - - can, can take over. And each one of those candidates is somebody who you commend to the employer. Is that right?---Yes. I use the word commend advisedly, I guess. What I'm saying is this person is being put forward for interview.

Yes. Well, commend means presented as suitable for approval?---Mmm hmm.

Or acceptance, doesn't it?---It can do, yes.

20

That's the - - - ?---That's the typical message, yes.

And that's the way in which you use it when you provide a shortlist report? ---Generally.

Well, not generally. That's how you use it, isn't it?---Mmm hmm.

30

So when you put forward four or five candidates for an interview and you commend each of those candidates, you're saying that any one of them would be suitable for the position, even if you consider one or two might be a standout, be an exceptional candidate. That's right, isn't it?---Potentially.

Well, that's what you're communicating to the employer, isn't it?---Yes.

Now, those who, those who aren't the standout candidate, they're not just there to make up the numbers, are they? They are there, sorry, I should explain that, they are there because they have a shot at getting the job, don't they?---The candidates that I would normally put forward, absolutely have a shot at getting the job.

40

Now, Ms Bishop and Mr Connell, in this case, even though they seem to have fallen off everybody's radar quite soon, you put those two people forward with a shot at getting the job?---Yes. They all, both of those people had good skills.

Yes. Now, you've known Jim Montague for many years. That's right, isn't it?---For a good many years. Yes. For about 10.

And over the years you've placed a number of staff at Canterbury Council?
---I have.

And you've been engaged in performance and remuneration reviews for the Canterbury Council?---I have.

And some time prior to mid-October, 2014, it was Mr Montague who invited you to provide him with a proposal for recruiting the new director of city planning?---It was.

10

And the document that you were taken to by Counsel Assisting before lunchtime today was actually your proposal to Mr Montague?---That's correct.

Now, in your statements, your first statement of 1 November, 2016- - -?
---Have you got a page number for that?

Well, it's, it's paragraph 10 of the 27 March, sorry of the 16 November statement.

20

THE COMMISSIONER: Is it in a separate folder?

MR ANDRONOS: It's page 3 of the statement. I'm not sure if that's what you were asking me.---Is that numbers 9, 10, 11 and 12? Is that what you're talking about?

THE COMMISSIONER: Yes.

MR ANDRONOS: Yes. Yes. That page. Now, there you give evidence, Ms, sorry, I'll withdraw that. In your statement, you say, Ms Carpenter, that Mr Montague said to you, "I need you to tap a few people on the shoulder, including Simon Manovski and Spiro Stavis." Can you see that? I think you were asked some questions about that this afternoon. Now, that statement was made over two years after you had that conversation, wasn't it?---That was correct, yes.

30

Was that the first occasion on which you had to recall the words used in that conversation?---I don't remember that but it, Jim Montague did say, "I need you to talk, tap a couple of people on the shoulder." Yep.

40

But from time to time, other clients ask you to include people?---Yes. They do.

Yes.

THE COMMISSIONER: And can I just ask, "Tap on the shoulder," is that in case, for example, Mr Stavis hadn't applied, you could ring and say, "Do you know this position is open? Would you be interested in applying"?

---So, so a search process is really about going out and seeing who's out there and then having a conversation with them. And not atypically, clients will ask you, you know, "We've heard about so-and-so and so-and-so. We'd like you to approach them." And that's what I took this conversation to be, "I'd like you to approach Mr Manovski and Mr Stavis."

All right.

10 MR ANDRONOS: Yes. Could Mr Montague have actually used the words, "I would like you to, I would like you to include them?" rather than using the words, "Tap them on the shoulder"?---It may be. Yes, absolutely.

So in your recollection you remember the effect of what he said, but is it true that you're not necessarily committed to the words, "tap them on the shoulder"?---Not necessarily committed to those words.

Yes, yes, thank you.---But certainly to the outcome.

20 Yes. Now, you've had - - -

THE COMMISSIONER: Sorry, can I just confirm that this conversation is pre your interviewing and shortlisting?---That is absolutely correct.

MR ANDRONOS: Now, you've had something like 11 applicants which you reduced to four for the purpose of the shortlist, not including Mr Stavis. Is that correct?---There were initially 27 applications, I interviewed seven I think people - - -

30 Yes.---? - - - from memory, I'd have to go back to my notes.

Yes. Now, if I could take you to the criteria. You've been taken, you've been taken, Ms Carpenter, to the director, to the director (city planning) information pack. Now, I've been working off the one which is attached to your statement, if that's a more convenience place - - -?---Is that - - -

- - - to find it?--- - - - volume 3 or volume 4?

Yes.

40 MR BUCHANAN: Volume 3.---Volume 3.

MR ANDRONOS: Volume 3, I think it's page 19 and following.---Okay.

If I could take you to page 26. Now, do you have the document, Ms Carpenter?---I do, thank you.

Page 26 sets out the specifications, and I think you've been asked about some of them and you said that some of them were key specifications. I suggest to you that all of them were key specifications, weren't they?
---All of them were important specifications, yes, absolutely.

Yes. And can I take you to the fifth bullet point, collaboration. And I'll just read it out. It says, "As a key member of the leadership team the director (city planning) will be expected to work closely and collaboratively with the general manager, the leaders of other divisions, staff in their own division and the elected council." So you don't see anything unusual of objectionable in that formulation of the specification of collaboration, do you?---No, I don't.

No. And the person who is to ultimately get the job was going to have to be able to work collaboratively with the council.---Yes.

Yes. Irrespective of who that council is, the director of city planning was going to have to be able to work with those individuals, wasn't he or she?
---He or she was, yes, absolutely.

Yes, yes. Now, if I take you to the final bullet point, influence, ability to analyse and resolve issues, to negotiate outcomes and guide executive decisions in a complex politically-sensitive environment. Again, you don't find anything objectionable or unusual in that formulation?---No, I don't.

Because the director of city planning was going to be involved in dealing with issues which were ultimately political, wasn't he or she?---Yes, but also technical.

Yes, also technical. But being politically astute would be an advantage, wouldn't it?---Yes, and how would you describe politically astute?

Well, I ask the questions, Ms Carpenter. But, but being able to, being able to navigate difficult political waters would be an essential part of the job, wouldn't it?---Yes, it would.

And those waters, to carry on the analogy beyond any reasonable limit, those waters would be full of councillors who may have all sorts of political hobby horses that they ride. I've mixed the metaphor there but you agree with that, don't you?---I do, yeah.

And somebody who was able to deal with those councillors would be better in that respect than somebody who can't. That's self-evident, isn't it?---Can I answer that question in two ways? Firstly, yes, but secondly, this is a criteria that I would have already assessed, and my observation would have been that those four candidates who were on the original shortlist had all had to navigate difficult political waters in the past and who were politically astute, and that's why they were there.

We're probably not disagreeing on anything in that regard?---Good.

But you accept that was a criterion which you brought to bear?---Yes.

In assessing those people as suitable for going forward. Now, just coming to those four originally shortlisted candidates. Your view at the time was they each had considerable strengths in relation to the specified criteria?

---Yes, that was my view.

10

Not all had experience at director level, had they?---No, but most of them had. Those who had not had experience at director level had had extensive experience at acting director level.

Do you agree now who had had actually had experience as an appointed director?---Simon Manoski had been a director with the Department of Planning as I recall, I'd have to go back and look at their resumes, I'm sorry. Karen Jones was a director with the Department of Planning and Vince Connell was a director of planning with, from memory, Tweed Council.

20

Neither Mr Manoski, nor Ms Jones, had been a director of planning in a council, had they?---No, they hadn't.

And Ms Bishop hadn't been a director of planning?---No, but she had acted as director.

She had acted. Indeed, Mr Occhiuzzi hadn't been a director of planning at his council before he was appointed in 2010. Do you remember that?---I don't remember, I wasn't directly involved with his appointment.

30

Now, you've given some evidence about your views as to Mr Stavis' qualification. You accept that Mr Stavis had been working as a town planner in New South Wales for 23 years at the time of his application?---I believe so, yes.

And that he had been in private practice for a considerable part of that time?---He had.

He had been a senior planner with Botany Council?---He was.

40

He had been a senior planner with Strathfield Council?---He was.

He had had some experience in acting in more senior roles during that time, hadn't he?---Not director roles.

Not directors but more senior than - - - ?---Group manager at Strathfield is the equivalent of a manager, a senior manager.

Yes. Yes. Now, perhaps Ms Carpenter could be shown the shortlist report of Mr Stavis.

THE COMMISSIONER: Have you got a page number for that?

MR ANDRONOS: Again, it's about three quarters of the way through your statement annexures but I'll just try and find the actual – I think it's page 101 and following.

10 MR BUCHANAN: And two?

MR ANDRONOS: 102, I'm indebted to my friend, of volume 3?---I have it here, yes, I've got it.

Now, you said that Mr Stavis – and I'm paraphrasing here – had done a poor job in putting his CV together.---Ah hmm.

And did you or your office have some involvement in formulating this document?---Formulating which document?

20

Well, I - - -?---From page 106, is that what you're talking about?

No, from page – sorry, I'll withdraw that question. I'll withdraw that question. The document from page 101 through to page 105 is a Judith Carpenter & Associates document, isn't it?---It's a shortlist report and it's my, my comments.

Your comments?---Yeah.

30 And was someone in your office assisting you in this or is this your work? ---This one was my work.

This one is your work.---Yeah.

And that part of the document which is attached to the shortlist report, being the CV at page 106 through to 108 through to 109, did you have some role in preparing that document?---I tried to, so we had a standard format for CVs and I tried to distil the information that Mr Stavis had given me into that format.

40

Now, if I could take you to page 103, which is page – sorry, 104, which is page 4 of the shortlist report.---Yes, I have it.

In the third paragraph, you say, “Spiro indicated he has now few contacts in,” I think that's meant to be “in the State Department of Planning, since most of his contacts have left, but believes that he could establish those relationships quickly. He brings 23 years of experience in planning,” now

I'm going to ask you about the next part, "and is commended to you as a candidate for the role of director (city planning) with Canterbury Council."
---Mmm.

So this is your document, isn't it?---This is my document, and that particular word I have regretted.

I understand that, but it's a word that you used.---It was a word that I used at the time, yeah.

10

And you used that in a representation to Canterbury City Council about a candidate for the position of director of city planning, didn't you?---I did.

And so any reasonable person reading this would read this and think, well, this person has Judith Carpenter's stamp of approval, hasn't he?---Despite the fact that I had indicated to Mr Montague that this person I didn't think was suitable.

20

I'm asking you about this document, Ms Carpenter. Could you please answer my question. A person reading this would understand that you are representing to them exactly what it says, that you commend this person for that particular role.---For interview. Commend that person for an interview.

Commend that person for an interview?---Yeah.

But as we've already established, everybody who attends the interview has a decent shot, haven't they?---Potentially, yes.

30

And so by commending Mr Stavis for interview, you're putting him in that select pool of candidates whom you were saying to Canterbury Council were suitable for the position. That's right, isn't it?---That could be one reading of it, yes.

Well, it's the only reading, isn't it?---I don't believe so, no.

40

How else could this document be read?---This document, I, I believe that this document should be read in terms of the other conversations that were going on at the same time. I didn't, I also didn't want to disadvantage a candidate. I mean, that's the other important thing.

By that you mean you didn't want to disadvantage Mr Stavis?---Yeah.

Yes. Because Mr Stavis presented at interview and you thought he was a reasonable enough person, didn't you?---I thought his experience was very light compared to other candidates.

You regarded him as a clear and articulate communicator?---I did, yes, and he was.

You understood that he was very customer-focused?---He'd run his own business, yes.

That's not actually an answer to my question, Mr Carpenter. You understood he was customer-focused.---Yes.

And that could be an advantage in a council like Canterbury, couldn't it?
---Yes.

10

So in commending, sorry, I withdraw that. I take you now to the interviews themselves, Ms Carpenter. You've given some evidence today about the use of a panel and that you regard that as generally an unusual device. Is that a fair summary?---No, that's not what I said. What I did say was unusual was having councillors on the interview panel. Panels are very typical of local government appointments and would be, I would, it would be unexpected not to have a panel.

20

I'm sorry, I wasn't trying to mischaracterise your evidence, Ms Carpenter, I apologise if I didn't repeat it sufficiently accurately. You were aware that Mr Montague had a statutory obligation to consult with councillors on the appointment of director of city planning?---I do.

I'm sorry, you may have already given this evidence. When did you find out that the people on the panel were going to be the mayor and two councillors?---It would've been just shortly before the panel was convened, so probably the week before. At the time that I was arranging interviews, would have been the time.

30

And leaving aside the personalities in this case, but where a general manager has a statutory obligation to consult with somebody, or a group of people, it's not an irrational thing to have representatives of that group of people on the council, is it?---No, it isn't.

Even if they don't have - - -

THE COMMISSIONER: I'm sorry, hold on.

40

MR ANDRONOS: - - - particular expertise in the technical area which the interviewee is going to be responsible for?---I'm not sure about that. My own experience is that generally, if they had other people on, either councillors or external people, it would be somebody who had some kind of expertise in that area. So that would have been my previous experience, that's probably the only way I can answer the question.

You were aware that Mr Occhiuzzi had clashed with councillors in the period up to 2014?---I wasn't aware, although Mr Montague indicated that

he had basically fallen out of favour with councillors in the briefing that he gave me.

And in those circumstances, accepting what Mr Montague told you, in those circumstances it's a sensible course, isn't it, to include councillors in the decision making process?---Yeah. I have no quarrel with that at all.

Yes?---No quarrel.

10 Now, the interviews themselves on 17 November. I think we've established the people present were yourself, Mr Montague, Mayor Robson and councillors Hawatt and Azzi. Do you recall that?---That's correct.

It's the case that Mayor Robson appeared disengaged throughout the process, didn't he?---Certainly that was my impression.

Did he ask any questions?---He would've, yes. I believe so.

20 Was he on his phone or mobile device at all during the course of the day?
---I don't recall that but he did have his eyes closed for a lot of the time.

Yes. Eyes closed, arms folded, leaning back in his chair?---I can't remember if he was leaning back in his chair, but I do remember the eyes closed.

Yes. Did that surprise you?---Yes.

30 Did you form the impression that he was indifferent to the decision that was going to be made?---I guess ultimately I probably did but, you know, I didn't draw any particular conclusion at the time except that he was disengaged with the process.

Now Councillors Hawatt and Azzi on the other hand were very much engaged, weren't they?---They were.

And your view as you've told us today is that they were rude and aggressive to a number of the interviewees?---Yes.

40 Did you form the view that they were hostile to Karen Jones?---Yes, I did.

Were you present after, were you present after the interviews when Councillor Azzi said these words, "I don't want a leftie greenie from Leichhardt?"---I don't recall those words being said, but it is consistent with, it would have been consistent with the kind of comments that were made, but I don't remember that.

Did Councillor Azzi essentially treat Ms Jones as some hostile left-wing enemy of his?---I wouldn't have described it as that, I would have just said

it was plain rude and unprofessional and inappropriate. I didn't have any view that it was because she was from Leichhardt Council, and she wasn't from Leichhardt Council at that time, so yeah.

Well, that's right.---Yeah.

But they're my instructions as to what was said.---Right.

10 Irrespective of whether he was correct in any aspect of his characterisation.
---Mmm.

But that's what I'm obliged to put to you. Is this a fair characterisation of the interview process – that in effect it was derailed by the conduct of Councillors Hawatt and Azzi?---I would say that's correct, yes.

You saw nothing in Mr Montague's conduct which indicate he was hostile to any of the candidates?---No, I did not.

20 Did he ask sensible questions?---Yes, he did.

He paid attention to the answers?---He did.

You formed the impression that he was open-minded as to which of the five candidates might ultimately be offered the position?---I think he was forming a view which he indicated to me at the conclusion of that day in an email which said that he, his two preferred candidates were Karen Jones and Simon Manoski.

30 But you got the impression that he formed his view on the basis of the interviews themselves and the material before him?---Yes.

You also formed the view that Karen Jones was the best candidate?
---I thought she had performed well at interview, yes.

And her interview in combination with her CV - - -?---Yeah.

- - - led you to think she was the - - -?---She was certainly a strong candidate.

40 She was a strong candidate.---Yeah.

But you also would have formed the view, didn't you, that irrespective of how strong a candidate you and perhaps Mr Montague thought she was, she was not going to be in a position to collaborate with and influence members of council?---On what basis do you – I find that an unusual statement because I think she did have a reputation for being very collaborative, both in her previous council work and certainly she'd been able to collaborate at

council level, so there was nothing there that would have indicated that she couldn't collaborate effectively.

Yes, but I'm not saying it's a deficiency of hers, I'm saying in the situation where we have Karen Jones as a director of planning on one side and Councillors Azzi and Hawatt and whoever their followers might be on the other, her own willingness to collaborate would not be conclusive of whether collaboration could take place. That's right, isn't it?---That's true, but I was not aware that either Councillor Hawatt or Councillor Azzi had followings on the other side, so you know, I wasn't aware of that.

Yes. But the extent to which they did, her ability to collaborate would be hampered by the willingness of people on the other side of the ledger to collaborate with her.---Potentially.

Mr Stavis performed well at interview, didn't he?---Mr Stavis was given a very easy interview, yes.

Leaving aside why he performed well for the moment, he did perform well though, didn't he?---He was, he was not outstanding but he was okay.

THE COMMISSIONER: Sorry, when you say an easy interview, what do you mean?---Well, there was not the same kind of aggression or the same kind of hostility towards him as there had been to other candidates.

MR BUCHANAN: Just before we continue, Commissioner, I note the time. If it's still convenient to do so, if the Commission could continue with this witness?

THE COMMISSIONER: Can I just enquire of the legal representatives, is there any difficulty in continuing with the witness? Does anybody need to take a short break to make a phone call?---Can the witness excuse herself?

Oh. You'd like a short break?---No, no. That's fine. No, that's fine.

No, Ms Carpenter – all right. Okay.---No, I'm right. I'm right.

MR ANDRONOS: For what it's worth, Commissioner, I think I've probably got about another half an hour, maybe - - -

THE COMMISSIONER: All right. I might just then ask Mr O'Gorman-Hughes, do you anticipate questions?

MR O'GORMAN-HUGHES: No, Commissioner. Not that this point.

THE COMMISSIONER: Mr Pararajasingham, I'm sorry, about that, do you have questions?

MR PARARAJASINGHAM: I have perhaps three to four minutes' worth of questions.

THE COMMISSIONER: All right. If we sit on to about just past 4.30, is that convenient for everybody?

MR BUCHANAN: Yes, Commissioner.

THE COMMISSIONER: All right. We'll continue.

10

MR ANDRONOS: Thank you, Commissioner. I'll do my best to make sure I meet the estimate, Commissioner. Just coming back to how Mr Stavis performed. You said he performed – again, I'm not trying to put words in your mouth – but you said he performed reasonably but he had a comparatively easy run?---That's correct.

20

Didn't that suggest to you that the councillors got comfortable with him? ---No, I wouldn't have, I, I wouldn't have put that construct on it at all. I mean it could have been for a number of reasons. It could have been that they had run out of puff because he was the last candidate of the day. A bit like I'm feeling at the moment. It could have been that they, I guess, in the back of my mind was, they had insisted that he be on the interview list and therefore they were supportive of him. So, that was also that in the back of my mind.

30

Yes. But leaving aside the first of those alternatives and coming to the last of the alternatives, that would suggest, wouldn't it, that they were comfortable with him?---I would have said collusion rather than comfortable. And, and you know, that's hindsight, probably. But I would have said that, yes, they were comfortable with him. Yep.

Well you say collusion, that's a construct you're putting on it sitting in a witness box in a corruption inquiry, isn't it?---Well it was a, it was a construct that I put on it at the time as well.

Well, at the time, you didn't pull Mr Montague aside and say, "There's some funny business going on here," did you?--- I did eventually.

40

Eventually. I'm talking about the day of the interview.---No. I didn't. Not on the day of the interview.

The day of the interview, I'm suggesting to you, you didn't see anything that suggested to you collusion?---There was nothing concrete.

THE COMMISSIONER: Can I just ask, did either of the councillors indicate that they had met Mr Stavis beforehand or that they knew him or knew of his reputation?---No.

Right.

MR ANDRONOS: Thanks. Now, you accept, don't you, that the decision as to whom to hire in the role of director of city planning was Mr Montague's decision to make?---I do.

And the extent to which you would have any involvement in that decision would be really circumscribed by the extent to which Mr Montague asked your opinion?---That's correct.

10

And he wasn't obliged to take your opinion, to take your advice?---That's true. He was not.

And in making his decision - - -

THE COMMISSIONER: Could you just speak into the microphone?

MR ANDRONOS: Sorry. In making his decision, you accept that that called for an evaluative judgment to be made on his part?---Yes.

20

Taking into account compliance of each candidate with all of the criteria? Please give a verbal answer?---Yes.

And that in doing so, he was making a prediction as to who out of those candidates was most likely to perform best in the role?---Yes. And on that basis, his choice at the end of the day was Karen Jones and Simon Manoski.

Well his choice at the end of day 1?---The end of that interview process.

30 But the process didn't end there obviously. You're aware that Mr Montague, I think, in the next, in the following two weeks met with Ms Jones and met with Mr Stavis?---Yes.

And are you aware that he sought unsuccessfully to meet with Mr Manoski as well?---Yes.

And that he gradually came to form the view that Ms Jones was ultimately not going to be able to thrive in the environment of Canterbury City Council as at 2014? You're aware that he came to that view?---I'm aware that he moved away from her as the preferred candidate.

40

Did he and you ever discuss his reasons for doing so?---I can't recall, I'm sorry.

And he came to the view by about the end of November that Mr Stavis was, in fact, the person most likely to do a good job in the role, didn't he?---He came to the view that Mr Stavis would be appointed. I'm not sure that he came to the view that he would do the best job, no.

So is really the answer to my question, you don't know?---No, I don't think it is the answer to your question. I think he came to the view that Mr Stavis would be appointed but I don't believe that he felt that Mr Stavis would do the best job, so that's my answer.

Yes, thank you. You conducted the reference checks for Mr Stavis in late November?---I did.

- 10 Did you also conduct reference checks for Ms Jones and Mr Manoski?---I conducted reference checks for Ms Jones and I commenced reference checking for Mr Manoski but by that stage, he had – he wasn't the preferred candidate so they weren't concluded.

Mr Stavis' reference checks were all positive. That's correct, isn't it?---Mr Stavis' reference checks were positive in a bland way. They were recollections of over 10 years ago, and they didn't have a lot of substance in terms of – they were okay.

- 20 Weren't they answers to specific questions at the time?---They were answers to specific questions, yes.

When you say they're bland, they give actual answers to actual questions? ---They do.

In accordance with the questions as asked?---Yes.

- 30 The questions didn't really call for any greater exegeses on Mr Stavis' work habits or history, did they?---I'm sorry, I don't follow the question.

Well did you formulate the questions in the reference check?---I did. They're a standard process that we use.

They're a standard process, and I suggest to you these are the standard types of answers that one might expect?---Yes, although in answer to your question generally I would get a lot more information.

- 40 THE COMMISSIONER: When you answered originally that you agreed they were positive but in a bland way, when you used the description bland, what did you mean?---I guess bland was made, bland may not have been the most appropriate word. Because they were over 10 years old they didn't give me a lot of information about his performance now, they talked about it in a historical sense, they talked about it, they talked much more about him being a nice person as opposed to these are the things that he did or these are the things that he did particularly well.

MR ANDRONOS: When you provided the reference checks to Mr Montague on 26 November, you didn't attach any caveat as to the content of those reference checks, did you?---No, I did not.

You just said - - - ?---Here are the reference checks.

I'll turn this up if you want it, 'Hi Jim, please find attached referee checks for Spiro. Kind regards, Judith.'?---Yeah.

10 Yes. So Mr Montague wouldn't be able to draw any inference from the document you provided to him that you thought that these were somehow inadequate reference checks, could he?---Mr Montague also had - - -

If you could just answer my question please?---Can you phrase the question again?

The reference checks that you provided to Mr Montague on or shortly after 26 November didn't contain any caveat that would allow - - - ?---It did not, no.

20 Nothing to alert him to your view that these were somehow inadequate?
---No, they didn't.

You didn't form a view at the time that they were inadequate, did you?---I was concerned that the referees were over 10 years old, and if you follow the email trail you'll see that I indicated to Mr Montague.

When did you first indicate that to Mr Montague?---I don't have the details in front of me I'm sorry but they're there somewhere in the record.

30 MR BUCHANAN: The witness's statement at paragraph 27.

MR ANDRONOS: Thank you. I'm indebted to my friend. So, Ms Carpenter, do you have paragraph 27?---I do.

And when do you say that this conversation took place?---Well, I'm assuming it was at the time that I provided them to Mr Montague but I don't have a date for them, but it would've been at the time I provided, I'm sure.

40 I'm not criticising you for this?---Yeah.

That, really, is a reconstruction that you are placing on events sitting in the witness box today, isn't it?---Well, that's my witness statement there and the timing of that I can't be sure of, so in answer to your question, yes, that's a construct that I'm putting on it at the moment but I can't remember the timing, but I did alert Mr Montague to the fact that his referees were over 10 years old and that for me would've rung some, you know, that would have been a sense of concern.

Well, he had been in private practice for quite a long time, hadn't he?---He had.

10 Yes. Now, is it fair to say that you didn't find out that Mr Montague was going to make an offer to Mr Stavis before Mr Montague made the offer? Is that right?---I can't remember the timing sequence of this, certainly I was asked to prepare a contract letter for Mr Stavis. So, I would've had some knowledge, I think at the time, but I don't remember the sequence, I'm sorry.

Did Judith Carpenter and Associates receive payment in relation to Mr Stavis employment?---They did.

And that was in accordance with your usual terms?---Yes, absolutely, but we hadn't received payment. It was only after I found out Mr Stavis had been appointed that I went back to Mr Montague.

20 Now, you formed the view – when you found out that Mr Montague was going to offer the, or had offered the position to Mr Stavis – that Mr Montague was making a mistake, didn't you?---I did.

And you formed the view that he did so under pressure.---I did.

30 Are you able to tell the Commission what form you think that pressure took?---My observation – and this is my, you know, like, this is my interpretation of it – was that for some reason the two councillors who were involved in the recruitment process were putting pressure on Mr Montague for the appointment of Mr Stavis.

But you didn't know what that pressure was?---I didn't.

And you didn't know whether that pressure was simply the force of two combustible personalities with very strong policy views? For all you know, that's all it could have been, couldn't it?---It seemed to me that there was more to it than just the pressure of personality.

40 But that's an inference that you're drawing now?---That was an inference that I drew at the time.

Did you have a conversation with Mr Montague to express that view?---I don't recall, but I certainly did have a conversation with him about the way the decision was being made, yes.

Was that the conversation on the 11th of December?---Yes. But I probably expressed concerns before then.

Now, just before we get to that, your email to Mr Montague of 26 November - - -?---Which is where?

Which is, I think, pages 237 and 238 of volume 3.---Sorry, 200 and - - -

237 and 238, Ms Carpenter.---237.

10 Now, there you set out a few paragraphs about Ms Jones's abilities and then you said from the bottom of 237, well, the bottom third of 237 over to the top half of 238, you talk about Mr Stavis and then you say, you draw a comparison between the two. Now, there you express in quite strong terms that appointing Mr Stavis would be a surprising move and would fly in the face of a merit selection to appoint him. You see that? And those were your views at the time?---They were.

Do you accept that other people could in good faith come to a different view?---In comparison to other candidates, no.

20 But as between these two candidates, if you were to factor into the analysis the question of whether or not the candidates could work with council as it was, you must accept, mustn't you, that Mr Stavis becomes a whole lot more attractive than he would appear on paper, don't you?---Can we then go back to the question of technical skills and - - -

No, just answer my question, please.

MR BUCHANAN: Well, I object. I think the witness is answering it by saying that.

30 MR ANDRONOS: I accept my friend's interjection. Please go ahead, Ms Carpenter.---So if you look at the selection criteria, by no stretch of the imagination did Mr Stavis, was Mr Stavis a strong candidate. Whether he could work with councillors or not was immaterial, but in a sense you talk about being collaborative with council as working with councillors. That's fair enough. But he was – I don't think I'm answering the question well. Do you want to – I'm getting lost in the answer here, I'm sorry.

No, that's probably sufficient, a sufficient answer.---Okay.

40 Perhaps if I just put this to you as an assertion which you can accept or reject. Do you accept that by the end of November Mr Montague had in good faith formed the view that Mr Stavis would be the best candidate for the job?---No.

And do you accept further that noting that answer, I put this to you as well, that until events transpired in mid-December, being your letter of concern and the subsequent reference checks, Mr Montague believed Mr Stavis was the best person for the job and then in mid-December he changed his mind?

---No.

Your letter of 12 December, 2014 - - -?---Have you got a page for that for me?

It's volume, volume 4, page 2. The covering email is at page 1.---I have it, thank you.

10 Did Mr Montague ask you to write him this letter?---I don't believe so. I wrote the letter, I sat on it for a day or so to think about it, then I sent it. I did tell him that it was coming.

And did he express any gratitude for your offer to send this letter?
---I believe he did, yes.

Because the letter was intended to have a clarifying effect on Mr Montague's thinking, wasn't it?---Yes.

20 And you believe that it did have that effect?---I do.

And Mr Montague to your knowledge passed it on to the mayor, Mr Robson?---I believe so. He certainly sent me back a letter which I think indicated that he had taken it to the attention of the mayor and council, or he was going to. It was his intention to take it.

Yes. And when he wrote to you the next day, or a few days later on 15 December, and amongst other things he asked you to conduct further reference checks.---Yes, he did.

30 And they're the reference checks that you obtained from Ms Warton and Mr Falato?---Yes, that's correct.

And those reference checks came back negative?---They did.

Certainly in comparison to the 26 November reference checks?---Mmm.

40 And at that point you were aware that Mr Montague had decided that he was not going to persist with the offer to Mr Stavis and you were aware that he subsequently withdrew the offer - - -?---I am.

- - - to Mr Stavis?---Yes.

Now, did you hear anything further about this until just prior to Christmas 2014?---Basically my involvement ceased at that time. I have no recollection of hearing anything between then and the text message that I got on Christmas morning actually.

Had Mr Montague indicated that he intended to start the whole process again?---I don't remember that. What I do recollect is that I had had a conversation with him about that and that I understood others, other colleagues had had a conversation with him similarly that that would be the best course of action.

But you are aware at some stage he did make that, he did make that decision. Is that correct?---I'm aware that he was, he was planning to make that decision.

10

He was planning to make that decision.---Yeah.

Now, in your evidence you say that you received a text message from Mr Montague at 1.30am on Christmas morning.---I did.

You don't know what time that message was sent, though, do you?---I do because I have a son who lives overseas. It was coming up for Christmas Day. I thought it might have been him who was sending me the message, so I hopped out of bed and had a look.

20

To your great delight, no doubt.---I didn't sleep much for the rest of the night.

So, perhaps you misunderstand my question.---Sorry.

Certainly you know at what time it was received.---That's true.

But you don't know at what time it was sent?---No, I don't.

30 And Christmas being what it is, sometimes messages get delayed in their delivery.

MR BUCHANAN: Well, Your Honour, I do apologise, Commissioner, I don't know that this is going to assist you very much - - -

MR ANDRONOS: It's not going any further.

MR BUCHANAN: Particularly having regard to the time limit.

40 MR ANDRONOS: It's not going any further.

THE COMMISSIONER: Okay.

MR ANDRONOS: Now, you said in your statement that you, paragraph 39 of your statement, later you found out through a third party that Mr Stavis had been appointed. That would have been some weeks later, wouldn't it? ---It was probably, I was just trying to, I, I don't remember when it would have been, either. Mid-to-late February, I think, from memory. Yep.

Yes. Now, you were aware that Mr Stavis had been appointed with a one-year contract?---Yes.

And ordinarily, contracts are between one and five years. Is that correct?---Ordinarily, they're between three and five years.

Between three and five years.---Yes.

10 So in this respect, a one-year contract would be unusual, wouldn't it?---Yes.

Yes. And can I put this to you as a general matter? We had some, I asked you some questions earlier and you gave some answers to do with the importance of experience. Now, isn't one way of assessing a candidate is to actually put them in a job for a short while to see how they perform and then revisit the situation at the end of that temporary period of performance?---That's one interpretation, yes.

20 That's one way, that's one way you could do it, isn't it?---Yes.

So appointing somebody to a one-year term, where it would ordinarily be a three to five-year term, could be seen as a way of giving somebody an opportunity to see whether he would perform?---It could.

30 All right. In the final paragraph of your first statement, Mr Carpenter, you talk about a friendship between Ms Jones and Mr Montague's daughter. What did you know about that friendship?---I knew nothing about it until after the recruitment process was completed and all I knew was that they had worked together and I don't remember if it was either Mr Montague or Karen Jones herself who told me.

So when you said they had worked together, that didn't give you any indication of the degree, or not, of closeness between them, did it?---No. It did not. No.

And did you find out at the time or later?---I found out at the end of the recruitment process.

40 And one of them had said, there's some level of friendship between Mr Montague's daughter and Ms Jones?---Whatever was said led me to understand that they had worked together and that there was a level of friendship between them. That's, and that was all I knew.

Thanks. Nothing further, Commissioner. Thank you, Ms Carpenter for your indulgence. Thank you, Commissioner for your indulgence in the extra time.

THE COMMISSIONER: And well timed.

MR ANDRONOS: It's the first time it's ever happened.

THE COMMISSIONER: Mr O'Gorman-Hughes, still no questions?

MR O'GORMAN-HUGHES: No, Commissioner.

THE COMMISSIONER: All right. Mr Pararajasingham, sorry, any questions?

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MR PARARAJASINGHAM: Just briefly, Commissioner. Ma'am, I appear for Mr Stavis. Just very briefly, the concerns that you expressed to Mr Montague, you regarded those, the expression of those concerns as confidential?---Confidential to whom?

Between you and Mr Montague?---Insofar as Mr Montague would take them into consideration in his decision-making, yes.

Certainly you didn't convey such communications to Mr Stavis?

20

---No.

So as far as you knew, Mr Stavis was completely oblivious to the concerns that you had expressed to Mr Montague?---Yes, that would be accurate, yeah.

The letter that you sent to Mr Montague on 12 - - -?---December?

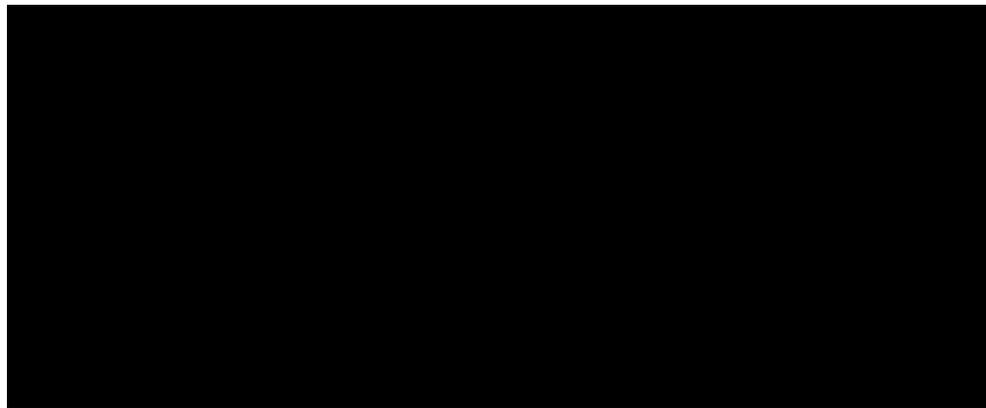
Sorry, just one moment. Yes, 12 December. This is at page 3 of volume 4. There in the second paragraph you say, "My concern has been heightened by recent conversations with others that express significant reservations about Mr Stavis's personal integrity." Do I understand that at that point that was on the basis of rumour?---Ah hmm.

30

You then - - -?---And conversations, yes.

Sure. You then sourced two references?---Yes.

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10

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I have nothing further.

THE COMMISSIONER: Right. Mr Buchanan.

MR BUCHANAN: Thank you, Commissioner, I won't be long.

Can I ask you to go to volume 3 of the documents, page 28. Excuse me a moment. No, I do apologise, I've got the wrong reference.

30

THE COMMISSIONER: Is it page 29?

MR BUCHANAN: Yes, it could well have been, but I might come back to it, Commissioner. There's one matter that arises out of a question that Mr Moses asked you. I wonder if the witness could be supplied with the statement of Mr Connell which might be – have you got it on the screen? We don't have a paper copy but we might be able to put it up on the screen. Can I just ask you, do you see that - - -?---Yes, at the top.

40

- - - exchange of emails?---Mmm.

Can you identify that as an email that you received from Mr Connell on the subject of a resume and the function of the covering letter in your response?---Yes, that's correct.

That's an exchange you had with Mr Connell on that subject?---Yes. Mmm.

And that expressed your views as to the, as to what was required in the circumstances?---Yes.

Thank you. So, sorry, for the record, email exchange of the witness and Mr Connell, Vince Connell, on 17 October, 2014. Thank you. Could I ask you to have a look again at volume 3. You were asked about your expression “commend” in the shortlist report on Mr Stavis.---Yes. Yes.

10 And I just wanted you to have a look at, if you could, page 70 in the first instance. I won’t take you to all of them, but this is your report in respect of Mr Manoski. And then at about point 6 on the page, point 7, “Simon is commended to you as a candidate for the role of director of city planning.”
---Yeah.

Page 79, this is about Ms Bishop. Bottom of the page, “Meryl is commended to you as a candidate for the role of director of city planning.”
---Yes.

20 Page 96. Bottom of the page. “Ms Jones is commended to you as a candidate for the role of director of city planning.”---Yes.

And of course you said the same about Mr Stavis.---I did.

Was that a formula?---It’s a standard format.

And what's its function? Why do you use it?---It’s a function to say that this person is coming through to shortlist interview, and it’s a little, usually it has a little summary of the, of my views, and saying that this person who’s
30 coming through is a candidate for the role.

You were asked questions about, in abstract, the importance of political astuteness and the ability to work collaboratively. But as far as you're concerned, any candidate with those qualities who doesn't have the technical ability to perform the job in the first place – would you care to finish my - -
-?---Would not be considered as a candidate. They had to have technical skills.

40 And why?---This was a complex planning role. It required a deep understanding of complex planning matters and it required a deep understanding of local government planning.

You were asked questions about the criteria on page 26 of volume 3, in the information pack, under the heading Person Specifications. And were you to rank them for this job, how would you rank them?---So if I were ranking them for this job, I would say that a baseline would be technically proficient to get to the next stage.

After that?---And then after that, so some of the key issues, as Mr Montague had explained them to me, were leadership for the team, because he, he, his view was that there needed to be changes in the team and that there would be a significant change. So change management and leadership were critical. There were four, actually. Just if you bear with me a moment. Strong technical skills in planning. Strong change management skills. The other things that they were looking for were experience and skills in process improvement and extensive team management experience.

- 10 Can I just draw your attention to the second-last item. You mentioned earlier that the experience in local government seemed to you to be important for this particular position in a comparable role.---Or in the broader, yes. Or in the broader government sector. But some understanding of local government and state government would be important.

Those are the additional questions I had for the witness, Commissioner.

THE COMMISSIONER: Thank you.

- 20 MR BUCHANAN: I'm sorry, Commissioner. Would you – thank you, Commissioner, I apologise for the delay. Thank you, Ms Carpenter.

- THE COMMISSIONER: Can I just ask, Ms Carpenter, on the criteria, you were asked about the collaboration, and this is linked with this idea of political astuteness. In assessing that, especially during an interview, what kind of questions do you ask or experience do you look at to see whether a person will work collaboratively, especially with an elected council?---So I guess it depends on the particular role. But in this particular role I would have been looking at questions around how they had worked either with
30 council or with an elected representative such as a minister, what contact they had at that level, what interaction they'd had at that level, what kind of information they had provided, how that person interacted with them. So it was exposure at that level and the ability to manage those relationships that were things that I would be exploring.

And I take it not just whether in a particular interview there was hostility or
- - -?---No.

- 40 - - - friendliness or anything.---No. No. Not at all.

All right. Anything arising from that? All right. Can I thank everybody for staying back, and thank you, Ms Carpenter. We are adjourned until tomorrow morning.

MR BUCHANAN: And can the witness be excused.

THE COMMISSIONER: I'm terribly sorry, Ms Carpenter. Very important. You are excused.---Thank you.

MR BUCHANAN: Thank you, Commissioner.

THE WITNESS EXCUSED

[4.42pm]

AT 4.42PM THE MATTER WAS ADJOURNED ACCORDINGLY

[4.42pm]

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