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INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC
COMMISSIONER

PUBLIC HEARING

OPERATION DASHA

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 19 APRIL, 2018

AT 10.00AM

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MR BUCHANAN: Good morning, Commissioner. An administrative matter, we're joined by counsel for Mr Hawatt today.

THE COMMISSIONER: Mr Lloyd, is it?

MR LLOYD: Indeed, Commissioner.

THE COMMISSIONER: You're granted leave to appear for Mr Hawatt.

10 MR LLOYD: Thank you, Commissioner.

MS MITCHELMORE: Commissioner, I'm taking the first witness this morning. It is Nickitas, N-i-c-k-i-t-a-s, Katris.

THE COMMISSIONER: Mr Katris. Now, Mr Katris, I understand that you take an oath?

MR KATRIS: That's correct.

THE COMMISSIONER: Now, Mr Katris, I have been told that you would like me to make a direction under section 38 of the legislation.---That's correct, Commissioner.

10 Can I just emphasise, and I'm sure you've been told this, even though it indicates you're giving your evidence on objection and any of your answers or documents you may be asked to produce can't be used against you in criminal, civil or disciplinary proceedings, I just wanted to emphasise there's an important exception, that is if you give false evidence to this hearing. If you do that you may be prosecuted for an offence under the ICAC Act. It's a form of perjury, and obviously your answers which would be alleged were false could be used against you in such a prosecution. ---Thank you, Commissioner.

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

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

40 MS MITCHELMORE: Thank you, Commissioner. Can you state your name, please, for the record.---Nickitas Katris.

And, Mr Katris, you're an architect by profession. Is that right?---That's correct.

And is it the case that you also served as a councillor on Kogarah City Council for some 20 years between 1995 and the amalgamation on 12 May, 2016?---That's correct.

Mr Katris, you have made a statement in this matter to investigators dated 4 July, 2017. Is that right?---That's correct.

Can I provide you with a copy of your statement.---Thank you.

And just to have you confirm, that's the statement that you made?---That's correct.

10 Mr Katris, can I take you to paragraph 6 of that statement. You indicate that in 2010 you were introduced to Mr Spiro Stavis in the course of your work. Is that right?---That's correct.

And the work you're there referring to, is that your work as an architect rather than as a councillor?---As an architect, yes.

And at that time Mr Stavis owned and operated SPD Town Planners? ---That's correct.

20 And the firm was recommended for some consultancy work on some of your clients' projects. Is that right?---That's correct.

Did he do work with you on a number of projects or just one project? ---It would be, it was definitely one, we did get quotes for a couple of projects but I can't recall any others.

Okay. And over what period of time did you work together on that particular project?---From about 2010 to probably about the end of 2011.

30 I see. And how much contact did you have with him in the course of that time?---I suppose very little. We had a couple of meetings and he would ring me and provide, and ask me some questions about the building, the proposal, but my nephew who's an architect, registered architect, was predominantly in control of the project.

I see. Okay. And is it the case that Mr Stavis was preparing reports in relation to that project?---That's correct, yeah, that's correct.

And did you have cause to review those reports?---Yes.

40 You've said in paragraph 6 that you found that he had comprehensive knowledge on matters that related to development. Is that right? ---Yes, that's correct.

You've referred in paragraph 7 of your statement to SPD Town Planners ceasing to operate in about 2012. Is that something that you came to know from Mr Stavis directly?---Yes, that's correct. We inquired as to whether he'd like to quote on some of our projects for Statements of Environmental Effects and he said, "I'm no longer SPD Town Planners."

I see. And was it at that time that he told you he had moved to Strathfield Council?---That's correct.

Right. And you've indicated that following that he was employed as a town planner at Botany Bay Council.---That's correct.

Again is that something you heard from Mr Stavis?---That's correct, yes.

- 10 You've indicated in paragraph 8 that you didn't have an ongoing personal or social relationship with Mr Stavis and very seldom came into contact with him after SPD ceased to operate, but you would occasionally see him at council meetings. Is that right, is that Kogarah Council meetings?
---Kogarah, no, not quite Kogarah Council meetings but more the JRPP. I was the council's representative on the Joint Regional Planning Panel at the time.

I see. And you saw him there in his role as a consultant town planner.
---That's correct.

20

What do you mean by consultant town planner?---He would be the person that actually prepared the Statement of Environmental Effects, he would represent the clients when, you know, in order to describe the project, the impacts of the project and how they'd address those impacts.

Just to be clear, was that as part of his role with either Strathfield or Botany Councils, or was that a private - - - ?---No, that was prior to that as a private town planner.

- 30 I see. And was that in between SPD folding and his work at the councils, or - - - ?---It was, it was up to the time he folded.

So subsequent to his ceasing as SPD town planners, did you see him at JRPP related meetings?---No. I don't recall seeing him.

Now, is it the case that Mr Stavis made contact with you in the latter part of 2014?---That's correct.

- 40 And if I can take you to paragraph 9 of your statement, you indicate that you were contacted by him and asked if you knew anybody that could assist him to gain knowledge to apply for the position of director (city planning) at Canterbury City Council?---That's correct.

You said there that you recall him expressing concerns to you that he was unfamiliar with the structure of DAs strategic planning or council's visions. Are those matters that, in your experience as a councillor, you'd expect someone applying for the position of director (city planning) to be very familiar with?---That's correct.

Is it the case, Mr Katris, that in response to Mr Stavlis' request you got in touch with Mr George Vasil?---That's correct.

And you've set out in paragraph 12 of your statement how you came to know Mr Vasil. Is that right?---That's correct.

10 Your firm had done work for members of his family?---Yes. I actually met him in 2013 when he was, Ray White Real Estate, were actually selling some of the units for a client of ours, 11 units in Clark Street and I came in contact with him at that time and then again in early 2014.

I see. And he referred some clients to your firm?---He referred some clients, yes.

As well? That's right. Did you, or do you have a personal or social relationship with Mr Vasil?---Not at all.

20 You refer in paragraph 13 to Mr Vasil's involvement in the development business in the local Canterbury area and his profile?---Mmm.

30 And also that he had a thorough knowledge of planning and development assessment matters. How did you know about his possession of that knowledge?---Once he met me and we had a few, a couple of discussions, it was of my involvement at local government level, I also have a Master's of Urban Regional Planning so I have some idea of town planning issues, I'm also an architect, well, he would debate various issues with me and I would – he was more obsessed with the written word and I was more interested in the objectives behind the planning requirements and I got, we just had a couple of debates and he would refer things to me, and on top of that, he did have a reputation in the local area as being the go-to person if you wanted to know what was going on with regards to development and development assessment and Canterbury Council.

I see. And were the debates that you had with Mr Vasil discussions that you had outside of the work that your firm was doing at the time?---Generally speaking. Yeah.

40 THE COMMISSIONER: You said he was obsessed with the written word? ---Yeah.

What did you mean by that?---What he would do is he'd read the development controls and he would try to find fault in the actual written word to be able to get around the issue that the development control was trying to identify, and I kept coming back with, well, okay, fair enough, this might not be worded properly but in reality the objective is X, Y and Z.

MS MITCHELMORE: In your discussions with Mr Vasil about this, did he, aside from his focus on the written word, did he discuss any particular areas of land in the context of discussing development controls?---Not that I can recall.

There weren't any particular areas or sites that were of interest to him in that regard?---Not, well, only the property at, that was part of his family's property which was in Duntroon Street, Hurlstone Park. We were engaged to do work on that, and my nephew took over the project.

10

I understand. You've indicated, Mr Katris, in paragraph 14, that you were aware that Councillor Michael Hawatt was well known to Mr Vasil and you saw him at Mr Vasil's office on a few occasions. Is it the case that your awareness of them being well known to each other was based on those sightings of him at the office or was there something more?---It was basically those sightings at the office.

20

Mr Katris, when you contacted Mr Vasil about Mr Stavis, did you recommend him to Mr Vasil as someone who'd be suitable for the position of director (city planning)?---I indicated to Mr Vasil that this, Mr Stavis, comes from the private sector and the public sector. He, and I indicated that he did work in the private sector. I said to him that he, he really doesn't understand too much about the, the strategy of development assessments at Canterbury Council and also the, the future visions of council and if he could just have a, a word with him to actually put in the picture, it might be a good thing for Mr Stavis. I can't recall saying that he'd be great for council. It might be a good thing that he's got, I may, I think I actually said words to the effect that, "It might be a good thing that he's got both private and public sector experience." That's all.

30

I see. And can you recall what Mr Vasil's response was?---I think, I think it was words to the effect, "Okay, I'm happy to speak to him." That's just simple.

THE COMMISSIONER: Could I just ask - - -

MS MITCHELMORE: Yes, of course.

40

THE COMMISSIONER: When you spoke to Mr Vasil, was there any indication that Mr Vasil has heard of Mr Stavis beforehand?---No. I, he, I don't think he'd heard of Mr Stavis before that.

MS MITCHELMORE: So he certainly said nothing to you that indicated that he had heard of Mr Stavis?---He did, he didn't give me any indication that he had heard of Mr Stavis beforehand.

You've said that you provided Mr Vasil's contact details to Mr Stavis?
---That's correct.

So, that indicates, I assume, that Mr Vasil indicated in the call with you that he was happy for his details - - -?---Yes. He was happy to talk to him.

- - -to be provided?---Yep.

Can I take you back to paragraph 11 of your statement, Mr Katris, where you indicate that Mr Stavis asked you for a reference and you say that you didn't provide one because it's not your practice to provide a written
10 reference unless you can fully vouch for that person and their performance. Why did you consider you weren't in a position to do that for Mr Stavis?
---Well, I, I didn't know him well enough to be able to vouch for him. He did, he did one job for us. I saw some of the statements of environmental effects that he wrote, especially as a member of a Joint Regional Planning Panel, because we had to read all the documentation. I couldn't say that I've known him for so many years and, and therefore I vouch for him. I just, and I'm reluctant to provide anyone with a reference if, if I don't know them that well.

20 Now, Mr Vasil, do you know Mr Jim Montague?---Yes.

And you knew him, did you, around 2014?---In 2014, I've known, I've known, I knew him for a very long time because I came across him at local government conferences. But we, but I've known him maybe for 15, 20 years, off and on.

Yes. He, of course, being the general manager of Canterbury City Council.
---Yeah, that's right.

30 Did you have any personal or social relationship with Mr Montague?---Not at all.

Can I take you, Mr Katris, to paragraph 19 of your statement, where you refer to receiving a phone call from Mr Montague in relation to Mr Stavis and you describe the phone call as usual. What was it about the call that you considered to be unusual?---Well, I, I, Jim Montague had never spoken to me, had never really directly contacted me about anything in the past and all of a sudden, all of a sudden, I get a phone call from Jim Montague asking me about Spiro Stavis and I suppose what I found even more unusual was
40 that I really didn't know that much about Spiro Stavis. I just told him what I had told George Vasil. So, that's, that's - - -

And of course, you hadn't provided Mr Stavis with a reference?---No.

When Mr Montague asked you about Mr Stavis' ability, did you ask him why he was calling you for this information?---No. I didn't quite, I didn't ask him why he was calling me, I basically started off the discussion as, by saying that I really don't know that much about him but I do know that he

was in the private sector and the public sector, and that he did have a problem financially and, but I suppose that doesn't take away from the fact that he might be a, well, could be a good planner and it's probably a good thing that he is from the private sector and public sector, and that's about as far as I went.

Did Mr Montague tell you how he'd come to know that you might have information about Mr Stavis' capability?---I can't recall if he said anything about that, no.

10

Did he give you any context about why he was asking you these questions? ---Well, I had read in the newspaper that apparently – this was after Jim Montague had actually withdrawn the offer for work, so I read it, I'd read in the newspaper that apparently there was some questioning about why Jim Montague did that after formally giving it to him, and then from what I – because I remembered that, I presumed that's what it was all about that, you know, he was trying to find out more about Mr Stavis.

20 But that's not something that he said to you in the course of the call? That's just an assumption that you made?---It's an assumption that I made, yes.

I see. I think in your evidence just before, Mr Katris, you indicated that in speaking to Mr Montague you indicated to him that Mr Stavis had had some financial problems. Is that right?---Yes. He stopped SPD. I don't know the details of it but he stopped SPD planners and I think he, I think when he spoke to me a long while back, he said something about his partner not doing the right thing by him, one of his financial, I think his accountant created some complications and he had to close but I didn't get the details.

30 But that's something that Mr Stavis said to you directly?---Yes, in 2012 some time. Yeah.

Thank you. Just taking you back to paragraph 19, you indicated that you weren't sure when the phone call was but I think your evidence is that it occurred after you were aware that Mr Stavis had been appointed to the position?---And then it was withdrawn.

And then it was then withdrawn?---That's correct.

40 You indicate in paragraph 18 that you were also, you'd also become aware that some councillors were involved in attempting to remove Mr Montague from the council?---That's correct.

Can you recall if your phone call with Mr Montague was before or after you became aware of that?---I think it was after I became aware of that aspect.

In your call with Mr Montague, did you discuss any of the knowledge of which you'd become aware in the public domain with him?---I can't

remember, but it was pretty public at the time so I just, I, I may have but I'm not sure.

You indicate, Mr Katris, in paragraph 20 that you received a call from Mr Vasil asking about whether a council could offer employment and then retract that?---Yeah, I did get that call from Mr Vasil.

10 Are you able to place that call by reference to your phone call with Mr Montague? Can you recall if it was before or after your call with Mr Montague?---It may have been, from the best of, I can recollect, it may have been before the call of Mr Montague.

All right?---I think it probably would have been before the call of Mr Montague.

I see. And can you recall, Mr Katris, whether it was before you becoming aware of the issues with Mr Stavis that you read in the public domain?---No, that would've been, it was after.

20 It was after your knowledge of that?---After, yeah.

Did Mr Vasil tell you anything about why he was asking you the question? ---From memory, I think it was because apparently the – Mr Montague made a formal offer and now he's withdrawing it, and then he was saying, well, can a council, can a general manager do that? And I said yes, of course he can do that if certain other factors come to mind.

30 And so the conversation was explicitly in the context of Mr Stavis and the offer having been made and then withdrawn. Is that right?---Yes, that's - - -

Mr Katris, you've indicated that you said to both Mr Vasil and Mr Montague that Mr Stavis had worked in both the private and the public sectors?---Mmm.

Did you indicate to either of those gentlemen what clients Mr Stavis had worked for in the private sector? Did you give him any examples of clients?---No, not that I can recall.

40 Not that you can recall. That's the examination.

THE COMMISSIONER: Thank you. Mr Moses?

MR MOSES: No, Commissioner.

THE COMMISSIONER: I'll just very quickly go around. Has anybody else got any other questions?

MR NEIL: Yes, Commissioner.

THE COMMISSIONER: Sorry, Mr Neil.

MR NEIL: Thank you. Mr Katris, I appear for Mr George Vasil. I'd just like to ask a few short questions. In your statement at paragraph 8, you say you did not have an ongoing personal or social relationship with Stavis. Can we take it that as of 2014, your association with Stavis was quite low level? A low level association?---I would say so.

10 Yes, thank you. And you say in your paragraph 9 that you received a phone call from Stavis. Was this, as far as you were concerned, completely unsolicited?---Completely unsolicited.

Just came out of the blue?---Yes. That's correct.

Thank you. And he told you in that phone call that he was intending to apply for the position of director. Is that so?---That's correct.

20 At that time you had understood that Mr Occhiuzzi had resigned, but did you know whether or not, although he might have resigned, whether he finished the job, Mr Occhiuzzi?---I don't know. I wouldn't - - -

Did you know whether or not he'd given any period of notice with his resignation?---I don't know.

All right, thank you. And it was your decision to refer Mr Stavis to Mr Vasil, correct?---My decision in the context of trying to provide assistance to Stavis, yes.

30 Yes. But can we take it when you contacted Mr Vasil to tell him about Mr Stavis, you had no reason to believe that Mr Vasil was expecting you to ring him on that topic?---No.

Thank you. And you provided, I think you say in paragraph 15, contact details of Mr Vasil to Mr Stavis. Is that so?---That's correct.

Being your decision to do that?---That's correct.

40 Thank you. And in paragraph 20, you say that Mr Vasil had contacted you after the question of offer and then withdrawal of offer of employment that Mr Vasil had arisen. At the time, that is in 2014, were you then a councillor of, I think, Kogarah Council?---That's correct.

Had you been a councillor for a long period of time?---That's correct.

Would you consider yourself knowledgeable about council matters?---To a certain degree, yes.

Thank you, Commissioner.

THE COMMISSIONER: Anybody else, any questions for this witness?
All right. Ms Mitchelmore?

MS MITCHELMORE: I have nothing further, Commissioner. If Mr Katris could be excused.

10 THE COMMISSIONER: All right. Thank you for coming today, Mr
Katris, you are excused.

THE WITNESS EXCUSED

[10.34am]

THE COMMISSIONER: Our next witness is - - -

MR BUCHANAN: The next witness is Brian Robson.

20 THE COMMISSIONER: Mr Taylor is here?

MR TAYLOR: Yes. I indicate Mr Robson will take an oath and I will be seeking a section 38 declaration.

THE COMMISSIONER: And you've explained section 38?

MR TAYLOR: Yes.

THE COMMISSIONER: Thank you.

THE COMMISSIONER: Mr Robson, we'll commence with a direction under section 38 which Mr Taylor has explained to you. Can I just emphasise that the direction does not apply or the protection given by the direction does not apply to any false evidence if you gave that to the Commission, that you could still be prosecuted for an offence under the ICAC Act.---I'm aware.

10

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

20

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30

THE COMMISSIONER: Mr Buchanan.

MR BUCHANAN: Thank you, Your Honour.

Sir, your name is Brian Robson?---Correct.

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

40

You have made, if I have counted them correctly, five statements in relation to the matters before the Commission?---Yes.

And I give you a folder, please.---Thank you.

And what I would like to do in the first instance is simply identify the statements and then I would like to inform the Commission which parts are not going to be relied upon so far as I'm concerned at this stage in the hearing. First of all you made a statement dated 6 December, 2016.---Yes.

That concerns, after you provided some information about yourself, a planning proposal concerning 15-23 Homer Street, Earlwood.---Yes.

And I ask you – I withdraw that. Before going any further, if I can indicate this, Commissioner, if, Commissioner, you have a copy of that statement?

THE COMMISSIONER: Yes, I do.

10 MR BUCHANAN: That looking at page 3 and going over to page 4, unless persuaded otherwise we don't intend to rely upon paragraphs 15 to 18 in the hearing. The next statement in chronological order is dated 9 May, 2017. ---Yes.

Have you got that?---Yes.

And that concerns the interview for the position of director (city planning) in late 2014.---Yes.

20 THE COMMISSIONER: Is that the relatively short statement?

MR BUCHANAN: I'll just check that.

THE COMMISSIONER: I think as Mr Taylor's indicated, I've got two statements of that date.

MR BUCHANAN: Yes, that's, yes.

THE COMMISSIONER: One's very short.

30 MR BUCHANAN: Yes. And thank you very much for that. One is very short and that's the one that I'd direct your attention to at this stage. It concerns the DCP interview and the questions for that interview.---Yes.

And then the next statement dated 9 May is a lot longer. I'm going to be calling that your third statement if I may. And that canvasses Mr Occhiuzzi, it returns to the subject of the interview panel process for filling the position of the director of city planning and it also concerns events subsequent to that interview panel.---Yes.

40 And there are annexed to it a number of documents described in the statement as exhibits from essentially 1 through to 18.---Yes.

Just keeping on going, if we may. Then there is a statement dated 24 May, 2017?---Sorry, there, there was a, a small correction statement on 9 May, it was - - -

And is that what we're going to call statement three, the larger of the two statements made on 9 May?---No. I'm referring to an amendment to, a

correction I made to, and also identification of the, the questions. A very short statement, dated 9 May.

Yes. That's the one I'll call statement number 2. Yes. What's the correction you'd like to make?---Oh, no, no. It, it, the statement was regarding identifying the, the questions that were to be asked at the interview and then, there was 24 May. Maybe mine is slightly in different order.

10 Well, yes, but if we can just keep them in some sort of sequence so that we all know, as it were, what page we're on. We'll call the short one number 2, the longer of 9 May number 3, and then go to the statement of 24 May, 2017. That concerned the recruitment of Mr Stavis and conversations with Mr Iemma. And then there is a fifth statement, dated 6 June, 2017. Is that right?---Yes.

20 That replaced paragraph, that performed the function of replacing paragraph 36 in the longer of the two statements, dated 9 May. And also attached, a letter to the ICAC dated 22 January, 2015, a four-page letter, together with a document entitled ICAC Submission, bearing a date 20 January, 2015. And then underneath that, a large number of other documents, as against speaking part of a submission or a statement.---Yes.

30 Commissioner and parties, unless persuaded otherwise, we do not intend relying upon the following material in the fifth statement, the one dated 6 June. On the second page of the letter, dated 22 January, 2015, underneath the statement itself, the material commencing on the fourth paragraph with words, "The favourable rezonings," down to the end of that section, but on the fifth page, but still leaving in the words, "Yours faithfully, Brian Robson."

THE COMMISSIONER: I'm sorry, Mr Buchanan, where was the starting point?

MR BUCHANAN: The fourth paragraph on the second page of the letter with the stamp "scanned". So second page, fourth paragraph, commencing with the words, "The favourable rezonings," down to and including the two lines in that document on the fifth page but leaving in the salutation, the words "Yours faithfully" and "Brian Robson".

40 THE COMMISSIONER: Right.

MR BUCHANAN: Going over, I'll just indicate this, there is your document headed ICAC Submission, bearing a date 20 January, 2015. Is that right?---Yes.

Now that goes, in the first instance, for four pages, and at the end of the contents of the fourth page, you've identified what are called relevant attachments?---I'm sorry, I just can't seem to find it in this folder.

First of all, had you found the document headed ICAC submission with the date 20 January 2015 which is underneath the letter to Ms Joanne Gamble, Assessment Officer?---No unfortunately, I can't.

Very well. Can I have access, please?

THE COMMISSIONER: Yes, certainly.

- 10 MR BUCHANAN: I apologise for that. What I'll be doing is referring to a document which I do believe to be a document that you prepared, and we can probably bring up on the screen so that you can see it. Do you recall, just while that's occurring, sending to the Commission a document headed ICAC submission bearing a date 20 January 2015?---Yes, I do recall that.

And when you sent it, did it – I withdraw that. Can we just go back just a few pages to get it in context, please, to the letter? So, do you have a copy there of the letter?---Yes.

- 20 Thank you. And that letter is about five pages long, four pages long, sorry, and underneath that or attached to that when you sent it, you sent a document entitled ICAC Submission?---Yes.

Thank you. Was that the first page of it?---That's the first page of it.

Thank you. And if I can indicate for reference purposes that this document is to be found in volume 5 of the documents at pages 239 to page 242. And essentially this amounted to a complaint?---Yes.

- 30 About Mr Montague and Councillors Azzi and Hawatt?---It was not necessarily a complaint that I was making against the general management, Mr Montague, but it was certainly a complaint about the behaviour of Councillor Hawatt and Azzi.

Thank you. And then if we could flip to the fourth page, please, on the last page of the submission itself you identified attachments under the words, 'Relevant Attachments'?---Yes.

- 40 And those documents, if I can just indicate this for the record, can be found in the documents in evidence volume 5 pages 233 to 237 so far as concerns attachments 1 to 3. Just excuse me. Now, not in front of you but if I can inform the Commission, in the Commission's copy of witnesses' statements all of the documents attached to this document headed ICAC Submission appear. However, unless persuaded otherwise we do not intend to rely upon any of those documents that appear after the fourth page of the ICAC Submission, that is to say the one that's on the screen at the moment with the words, "relevant attachments." And as I've indicated, those attachments can be found in the documents that are in evidence.

THE COMMISSIONER: Just to confirm, could we go to the next page on the screen, is that entitled ICAC Submission and then “3, I have reasonable suspicion?”

MR BUCHANAN: That is correct, Commissioner, and in hard copy format, Commissioner, if I can hold up my copy - - -

THE COMMISSIONER: Yes.

10

MR BUCHANAN: - - - you can see that there are a couple of hundred pages perhaps.

THE COMMISSIONER: Yes.

MR BUCHANAN: We, unless persuaded otherwise, don’t intend to rely upon that in our closing submissions.

20

THE COMMISSIONER: And again can I just confirm, when you went to the previous page in the attachments you referred to the first three attachments and said an extract of pages are found in other volume.

MR BUCHANAN: That’s right, volume 5, pages 233 to 237. And the fourth attachment is at page 239 I’m informed.

THE COMMISSIONER: Page 239.

30

MR BUCHANAN: So I apologise if that might seem confusing but I’m very happy to go through any part of it again if it will assist Commissioner or any party - - -

THE COMMISSIONER: No, it’s fine.

MR BUCHANAN: - - - in understand so far as we are concerned what it is that is in evidence that will be the subject or may be the subject of submissions.

40

Now, Mr Robson, please feel free to consult any of those statements if it will assist you in answering a question and I will actually be directing your attention to particular paragraphs of the statements.---Thank you.

If you could introduce yourself to the Commission, please. You served, in your first statement you tell us at paragraph 4, on Canterbury City Council from 1999?---I was elected in September 1999.

And were you elected on a party ticket?---I was elected on the Labor Party ticket.

And did you serve continuously until council was amalgamated with Bankstown Council in May of 2016?---Yes.

But you were elected as the mayor in September 2012 in those elections. Is that right?---I was elected as mayor in September 2012 but assumed the position of mayor in November 1, 2011 when the previous mayor had resigned.

10 Thank you. Had you served as mayor before that?---No.

Now, on amalgamation the officers of councillor and mayor were vacated - - -?---True.

- - - automatically by legislation.---Yes.

Thinking back to at the time of your election as mayor, the position of director of city planning was held by Marcelo Occhiuzzi?---Yes.

20 And I'm looking now, if I can take you to it, to your third statement, if I can call it that, the larger of the two statements made on 9 May, 2017, and paragraph 5 in particular.---Yes.

Mr Occhiuzzi was appointed you tell us on 27 May, 2010?---I'm, well, as far as my recollection and the records would show, but I think that was true.

Does 2010 sound like the right year to you?---2010 is appropriately around about that time, because Robert Davidson had resigned.

30 And he resigned around October 2014?---Yes.

Can I ask you a couple of questions about the work that Mr Occhiuzzi did and his performance generally as director of city planning? Firstly, what was your opinion at the time of his resignation as to how he had performed in that position?---I thought he performed adequately.

40 And can you tell us what criteria would you take into account in forming such an assessment?---I'd say the quality of his reports, the fact that he was approachable, he was knowledgeable, if I had any queries relating to any of the developments he would answer those to the best of his abilities and he was basically very honest in his opinions.

Was there anything in his reports that ever came to you as a surprise as much as, you know, they sort of came out of left field and you wouldn't have expected that?---No. I mean, they confirmed with what my believes of the reports should have in them.

Did anyone, before he resigned, raise with you a concern about Mr Occhiuzzi's performance, or raise it in your presence?---As mayor, I became

aware that the general manager was not happy with his performance but we never spoke about specifics.

And how did you become aware?---The general manager made me aware that he was unhappy with his performance.

He didn't indicate why?---No, not in any great detail.

10 Can I just ask when was it, as you recall it – I withdraw that. How frequently did Mr Montague raise a concern about Mr Occhiuzzi's performance?---I cannot recall anything, any specific times. I really became concerned about the sum of the influences on Mr Occhiuzzi at the time of Oatley Street and the fact that - - -

Sorry, which street?---Oatley Street.

Oatley, O-a-t-l-e-y?---Yes, which I believe has been mentioned before.

20 Yes, we'll come to that?---And that, yes, he had gone out with two councillors and had been put under pressure.

Right. That was a concern we'll come to but just thinking, if you can, to when you first registered a concern about Mr Occhiuzzi's performance on the part of Mr Montague. Was that before or after, for example, the Oatley Street event?---Before.

How soon before?---I cannot recall.

30 How many times did Mr Montague say something indicating a concern about Mr Occhiuzzi's performance?---I recall it was, there was a couple of times. I think it was in relation to the time taken to produce reports.

And can I just clarify that? The time taken to produce reports, reports to council?---Yes. I think it was timely reports I think would be the expression.

40 Do you have a recollection of any concern being expressed by Mr Montague as to the time being taken to determine development applications?---That would be the nature of the reports being produced.

You told us about an event at Oatley Street, Kingsgrove, paragraph 7 in your statement. What was, or what were, the sources of information that you had for that? I take it you weren't there at the time?---No, I wasn't there at the time.

Where did you get this knowledge from?---No, I would, I cannot recollect specifically but it would most likely have been through Marcelo in discussions regarding what was happening with the Oatley Street.

It's a fairly detailed account, so it would suggest it would have had to have, it's more likely to have been someone who was there at the time?---Yes. I'd imagine so.

And I take it you didn't get the account from Councillor Hawatt or Councillor Azzi?---No.

10 The, you've referred to, at the bottom of paragraph seven of your statement, an application for retrospective approval of the illegal works. Did you understand that to have been a section 96 application for modification of a pre-existing development consent?---Yes. My recollection of Oatley Street, was that he had been given instruction under the DA requirements to keep the front yard unpaved, the garden area, and he had consequently paved the whole area and then had put in a section 96 to get those works approved.

And you say in paragraph 11 that Mr Occhiuzzi told you he felt he'd been put in a difficult position.---Yes.

20 Can you just describe for us, what did you understand to be the difficult position he felt he had been put in?---My understanding of the events was that he had been asked to go to a site inspection with the two councillors. He had gone to the site inspection and the owner was there and that he had been put under pressure by Hawatt and Azzi in the owners presence to come up with a solution then and there that was acceptable to council.

And acceptable to whom?---Well, it, it would have had to have gone to council to be approved but he was basically put under pressure to come up with a solution then and there, which I assume was favourable to the owner.

30 I mean, a solution, just the very concept of a solution suggests some sort of compromise of existing principles or development controls or rules, doesn't it?---Yes.

So some sort of compromise in the owners favour?---Yes.

40 Were you of the view that the job of council officers – in the planning or the development application assessment section of the council – was to provide solutions for developers if they encountered development controls that posed a constraint on their ambitions for development?---Sorry, would you mind repeating that?

Well, did you have a view about whether it was the role of council officers to provide developers – people undertaking any sort of development under the Act – with ways of getting around constraints posed by development controls by the LEP?---My view was that the LEP was in place to basically define zoning. The DCP was the fine grain for the LEP. The DCP had rules

and that those rules should be followed. And it was the council officers' responsibility to enact, or follow those rules that have been set by council.

Why should the rules be followed?---I think that's obligatory on any council officer, to do what is in the nature of the DCPs and LEPs.

But what's - - -?---It's their responsibility to do so.

10 If the rules aren't followed, what happens?---Well, if the rules aren't followed, I think that it's reflection on, on the, on the officer concerned.

But what sort of outcome do you have?---Well, you could end up with an outcome which is not complaint with the DCP or the LEP.

Going over the page of that third statement, you say that, as a result of Occhiuzzi's resignation, the general manager engaged Ms Judith Carpenter to manage the recruitment of his replacement. Did you know Ms Carpenter, or of her?---No.

20 Did you encounter her during the process of recruiting the new DCP?
---Sorry, recruiting of the?

Of the - - -?---The, sorry, the - - -

The, the - - -?---Director?

Yes, the director, not the development control planner?---No.

30 You say in paragraph 13 that the director of planning position was to be awarded on merit-based selection.---Yes.

What did you understand by that process?---Oh, well, obviously the best-qualified candidate would be selected.

And you draw attention to the provision of the Local Government Act that specified that the general manager appointed senior staff subject to consulting with council?---Yes.

40 Had you previously been aware of any process or conduct which you considered to be consultation with council in the appointment of senior staff at Canterbury City Council?---Not that I recollect.

In any form at all? I'm not saying - - -?---No, no, the - - -

I'm not testing you, I'm just asking.---No, no, I cannot remember any specifics but I would imagine that after the resignations of Bob Bullivant, director of city works and also Robert Davidson - - -

Can you just spell out that surname?---Bob Bullivant, B-u-l-l-i-v-a-n-t.

Thank you.---And Robert Davidson - - -

Yes.--- - - - who was the director of planning.

10 Yes.---New directors were appointed and I would imagine those, recommendations for those appointments would have been sent to council and dealt with council probably in a closed council meeting, but it was effectively a rubber stamp of the, of the appointments but that would have occurred way back in 2010 when Marcelo was first appointed.

20 So that does sound like council was being given the opportunity of rejecting a recommendation by the general manager even though it was within his power to make the appointment after consulting, irrespective of the result of consultation?---If council had due cause to query the appointments at that stage I'd imagine that would have been the process, to go back to the drawing board. But as it says under the Act the general manager is entitled to consult with council but not necessarily take the advice of council.

And in fact obliged to consult with council.---Yes.

30 So it's possible that you've already answered this question, but what did you understand to be the content of the requirement to consult, what did you believe that the obligation on the general manager imposed by the Local Government Act was to fulfil that obligation?---He was ultimately required to take a recommendation to council for council to ratify or reject that recommendation, but the word consult could be interpreted quite widely and it may involve or may have involved involvement in the interview process.

Please tell me if you don't know, but are you aware of what other councils - - -?---No.

- - - the practices of other councils in this respect?---No.

40 Now, you weren't -- I withdraw that. You say that in paragraph 12 that Ms Carpenter had managed the recruitment of Mr Occhiuzzi himself and also a man called Mark Shaw for a position of director of city works. Were you aware of that?---I was informed of that. It would most likely have been from the general manager.

But you otherwise weren't involved in the recruitment process?---No, no.

Can I take you to paragraph 14 of that statement? Ms Carpenter was to provide a shortlist of candidates who were to be interviewed by a panel, and then you say in previous appointments, no councillor, apart from the mayor at the time, had been part of the interview panel. So in your experience, first of all I should ask you what your experience was, had you taken part on

an interview panel for senior staff at Canterbury Council before?---No senior staff had been appointed during my time up to that stage, so the answer will be no.

But not even as a councillor, you weren't aware?---No. Well, when that statement was made I was under the impression that the previous mayor had been part of the panel, so it was just a natural assumption on my part that the mayor was part of the panel.

10 But that's just an assumption, you don't know?---It's an assumption. Well, I thought I knew but obviously it was probably an assumption.

No, no, that's fine, I just need to find out what the status is of your evidence, that's all. Who was the previous mayor?---Rob Furolo.

Spell it?---Robert, F-U-R-O-L-O.

20 Okay. How did you find out the composition of the interview panel for the appointment of the director of city planning?---Mr Montague had told me.

And was there a conversation about it or was it just an aside?---It would've been, I would've been sitting in the general manager's office, probably talking about the process and he had mentioned that he decided to put Hawatt and Azzi on the panel.

So can I just take a step to one side? You're probably in the general manager's office, did you have an office at council chambers?---Yes.

30 As mayor?---Yes.

At that time what was the extent of, and I'll use the word consultation if you don't mind, between the two of you?---On a regular basis both our office doors were open and we would wander in and out and have conversations during the day.

How much of your day or of your week were you in your office?---I was in my office five days a week generally from 10.00 until 6.00 or 7.00.

40 And is it the case that not a day would pass without some sort of interaction between the two of you?---I'd say the only days where there was no interaction was when Mr Montague wasn't there.

And how did you get on with Mr Montague at this stage?---Very well.

And as far as you could see, he with you?---Yes.

Were there occasions when he brought to you what apparently he considered to be problems that he needed to find solutions for, of any sort?--
-Yes.

Did he confide in you as to concerns that he had? You told us about concerns that he expressed about the performance of Mr Occhiuzzi. Were there others?---There may have been, I can't recollect any specifics.

10 I'm just trying to find out the, ascertain the nature of the relationship and the extent to which he brought to you problems that he thought he had and that he needed to, at least, have someone to talk to about?---Well generally, yes.

Yes?---If there were issues of concern, we'd have a particular discussion about them.

20 Did you talk to him about any concerns you had about the operation of council?---If there were any concerns about operational of council I would discuss it with him but mostly my concerns were with my relationship to other councillors.

Did you discuss with Mr Montague your relationship with other councillors?---Yes.

And the question of numbers on council for any given proposition or issue? ---Not with, no, not with any, in those terms. There was only one instance which I made a statement about where he asked me about numbers.

THE COMMISSIONER: Sorry, Mr Montague asked you about numbers?

30 MR BUCHANAN: Yes.

THE COMMISSIONER: Okay.

MR BUCHANAN: And can you just identify that so that we can come back to it, sorry? What issues - - - ?---That was the issue after he had withdrawn the application to Spiro and I, he was being put under pressure regarding that decision. Sorry, I've made a misstatement there. It was prior to the appointment of Stavis not with regard after the appointment, it was prior to.

40 Well, we'll come back to that. Apart from that issue can you recall any occasion where there was a discussion about a matter coming to council where you would express to him an opinion as to whether the numbers were there for there to be adoption of the proposal or recommendation, as the case may be?---Not that I recollect.

And in the period late 2014, can you tell us about the composition of council and how the numbers worked? And to make it easier for you, on development issues?---With regard to the development issues, it was usual

for Hawatt and Azzi, the junta, to act together with Nam and with Vasiliades. Adler and Kebbe usually voted with that bloc as well, Karl Saleh was sometimes there and sometimes not, and generally if there was any serious questioning regarding a development it would be left for Councillor Paschalidis, Councillor Linda Eisler or myself.

10 And did you mention Con Vasiliades?---Con Vasiliades, yes. He was part of the, well, he's a member of the Liberal Party group and you can say there was definitely a solid bloc of Azzi, Hawatt, Vasiliades and Nam with Kebbe and Adler floating.

And there was also, though, wasn't there, a female councillor Paschalidis?
---Paschalidis was also a member of the Labor Party but she was not part of that group.

She was- - - ?---She would query developments and was quite honest in her responses.

20 Now you used the word junta. Is that a word that you used in 2014/15?
---Yes. Yeah. It was, it was a word that – there was, there was a couple of descriptions, unfortunately they're not quite flattering, but the junta was Azzi and Hawatt because they were similar to military dictatorship.

What do you mean by that?---Well they just threw their weight around, basically, and that was one of the reasons that Marcelo had difficulty.

30 When you say 'threw their weight around', can you give us an example of the sort of conduct you're talking about?---28 Oatley Street where they put pressure under, put Marcelo under pressure to come up with a solution on site in front of the owner.

And did it have any relationship to achieving a majority for a particular position up on issue before council?---Yes.

In what way?---There were a few things that I was arguing strongly against, that just went, I felt, the wrong way.

40 And what was, in 2014/15, your relationship with Councillors Azzi and Hawatt like?---2014, up until around about October 2014, it was cordial. I felt that I was managing the situation in a reasonable way, even though there was some decisions I was uncertain about. After October 2014, it just went downhill rapidly.

What was the issue in October 2014?---I remember it vividly in that there was an application to come up to council regarding Bonds Road in Belmore. It had been to council, I think, three times but it may have even been four times. It was a section 96, section 94/96 request for an amendment for an extra two floors. Azzi came into my office and said, that's right, we were

discussing the city services business paper and there was nothing on the business paper, and I said to him, is there any other concern? He said yes, I want you to approve this and I said no, but rather with an adjective in front of it, emphasising no.

And what happened after that?---It actually went to council and I was quite -
- -

10 No, sorry. I wasn't actually trying to explore that issue. Your relationship with Mr Azzi and Mr Hawatt?---Oh, it, it deteriorated.

Do you remember at what end of October, 2014 that was?---Sorry?

What part of October, the month of October, 2014, as best you can recollect?---It was in the first two weeks because it was City Service, City Development, which would have been in the first two weeks of council, of the month.

20 Now, if I can, I apologies for diverting you, but I was trying to follow through your statement. We're at paragraph 14, and you hadn't been aware of a councillor being part of an interview panel before and you, yourself had not been part of an interview panel before?---No.

And when you say apart from the mayor, at the time, that was just an assumption on your part?---It was my belief at the part but obviously an assumption.

30 How did you find out the composition of the panel?---Mr Montague told me.

And was there any discussion about it?---I obviously asked why and he said considering the, the behaviour of the two councillors prior, he felt that it would alleviate some of the pressure of they had some ownership of the selection.

The two councillors, being - - -?---Yes. Hawatt and Azzi.

40 Did he indicate why he wanted you to be on the panel?---No. Again, I just assumed I was there, so, it was an assumption on my part that I was part of it, so - - -

And paragraph 15, you say that between October and November of 2014, the only conversations about the position of the director of city planning you had with Mr Montague, were about the type of person you both thought needed, was needed to fill a position?---True.

What did Mr Montague say on that subject, the type of person he thought was needed?---Well, my recollection is basically that we were looking for

somebody who was experienced and capable and a strong enough character to be able to handle Hawatt and Azzi.

So you've said "we" both in your statement and today. You agreed with him?---Yes.

Was there anything that Mr Montague said in that conversation as to whether a director of city planning was needed who would have any particular approach to development?---No.

10

Now, you've said again in, I'm sorry, you've said in paragraph 16, "During this period, I had no conversations with Hawatt, Azzi or Carpenter regarding the position." And then that on 17 November, you participated in the panel. Did you, before that day, speak to any candidate for the position?---No.

Did you know of any of the candidates, other than what you'd been informed as part of the business papers for the interview panel?---Not to my recollection. I, I, no.

20

Now, will you just excuse me a moment? Can I just ask you to have a look at volume three of the documents, I'll show you. If I can ask you to go to page 180 of the numberings in the bottom right-hand corner. And if you start at page 180 and then flick through to 214, you'll see that all of those pages have those broken lines down the left-hand side.---Yes.

The copy that appears there would be consistent with black spiral bound documents?---Yes.

30

Is that the way that council presented these sorts of documents when they needed to be considered by councillors?---Yes.

Before we leave the first page of those papers, the first page appears to be an interview schedule - - -?---Yes.

- - - for 17 November?---Yes.

And then the next page, suggested interview questions?---Yes.

40

And thereafter there are reports on each of the candidates?---Yes.

Can I just ask you a question arising out of the interview schedule itself. You'll see that there are times and an order of candidates that is proposed towards the bottom of page 180?---Yes.

Do you have a recollection as to when the interview panel finished interviewing candidates?---Oh, it was possibly round about 4.00-ish I recollect but could be wrong.

THE COMMISSIONER: And was that a matter that you had Mr Stavis as your last interviewee?---Mr Stavis was certainly the last interviewee.

And then when he finished did you have a general discussion - - -?---Yes.

- - - amongst yourselves?---Yes.

And how long, can you recall how long that went for?---I don't think it was a detailed, any great length of time.

10

MR BUCHANAN: So perhaps 15 minutes at the most?---Yes.

Would that be fair?---Yes.

So you would have been out of the room by perhaps 4.15 - - -?---Yes.

- - - 4.30 at the latest?---I recollect that would be about the time.

20

And this post-interview discussion that took place, did it take place in the same room as - - -?---Yeah.

- - - the interview panel had been sitting?---Yes.

30

Thank you. Now, would you describe to us what occurred during that interview, if you can just set it out for us as you recall it.---Well, prior to the, prior to the meeting, because I had my fears regarding the behaviour of Azzi and Hawatt, I made a statement that, to my recollection was that it was our job not to select the candidate but to provide the general manager with advice. We had no role in the selection process save providing advice. It was then suggested that we organise that we should each ask a series of the questions that were set in the paper.

And that's on page 181?---Yes.

Yes.---And that basically was I think the instructions that we decided or the actions we decided on that day.

40

Did Ms Carpenter take part in this discussion that occurred before the candidates started coming in?---I can't recollect specifically but I would imagine she would have had a few words to say .

Excuse me. Were you given a scoresheet to use to assist you with recording your opinion of the performance of candidates when they addressed the issues listed in the questions?---Yes. It's my recollection that we were actually handed the scoresheet and the scoresheet was based on the questions that are listed there.

We'll just see if we can pull it up.

THE COMMISSIONER: Was it Ms Carpenter's candidate assessment sheets?

MR BUCHANAN: Yes, exactly. It's behind Mr Carpenter's statement.

THE COMMISSIONER: I've got folder 1, tab 7.

10 MR BUCHANAN: Yes, that's right, in ours. It's at Exhibit 2 of Ms Carpenter's statement. So do you see that is just the commencement of what appears to be an assessment sheet?---Yes.

Do you recognise that? If you have a look in particular at the questions?
---I don't necessarily recollect it but it does look like the form that was used.

And did someone say that this needed to be completed?---Yes.

And were the panel members provided with a copy that they, a sheet each?
---Yes. Yes.

20

Did anyone take the role of sharing the exercise?---The general manager.

Thank you for that. Yes, Commissioner, it might be appropriate time to adjourn now. I've got a bit to go with this witness.

THE COMMISSIONER: Just for the transcript, my trusted associated reminded me the statements are Exhibit 53 and that would've been volume - - -

30 MR BUCHANAN: There are no volumes on top.

THE COMMISSIONER: No, sorry, that's correct. So it's just Exhibit 53. Thanks. All right. We're adjourned for about 15 minutes.

SHORT ADJOURNMENT

[11.32am]

40 THE COMMISSIONER: Thank you.

MR BUCHANAN: Commissioner.

Mr Robson, have you still got folder 3, volume 3 of the documents in front of you?---I think so, yes.

And can I ask you to turn again to the set of papers commencing at page 180 for the interview panel members. You'll see page 180?---Yes.

And underneath that is page 181?---Yes.

Suggested interview questions.---Yes.

And it was those questions that the panel had a discussion about beforehand and questions were assigned to different members of the panel. Is that right?---Yes, I recollect that.

10 What questions were assigned to you?---I cannot remember.

Do you remember whether they were towards the top of the page, in the middle, towards the bottom or all over?---I seem to recollect that the questions were allocated differently to each applicant, just randomly.

Right.---But I mean that was a long time ago.

And just if I could ask you to have a look, please, at pages 177, 178 and 179.---Yes.

20 You can see that they're photographs. Do they appear to you to be photographs of that page, page 181 of the questions?---Yes.

And there does appear to be spiral ring binding on the left-hand side, that is to say that it's a set of papers that have been folded from the front to show the page with the suggested interview questions and then a photograph's been taken of that page?---Yes.

Photographs have been taken of that page.---Yes.

30 Now, you said that that is a form that was not unusual at all for papers to be received by councillors when performing council business.---Yes.

And in your statement you have mentioned that there was a process for papers to be distributed to councillors. Can you just tell us what that was? ---Every Tuesday and Thursday papers, Tuesday and Friday, papers were sent out to councillors by courier, council courier.

40 To councillors' homes?---To councillors' homes in an envelope if the information could fit in that big envelope. But they were always sealed.

And that was the process for council and committee papers?---Yes.

And have you any reason to believe it was any different for this interview panel?---No, except that it may have been in a separate envelope rather than with all the general information sent, but I've got, I've got no idea whether that actually occurred.

If I can take you to paragraph 19 of your statement you say there that you can't recall any discussion by or among panel members before the commencement of the exercise on 17 November, 2014 as to whether anyone knew any of the candidates. Is there any chance that Councillor Azzi or Councillor Hawatt did indicate that they knew any of the candidates and you've forgotten?---No. There was no communication regarding the candidates prior to the interviews with Councillor Hawatt or Azzi.

10 In paragraph 20 over the page you indicate that under the terms of the code of conduct, that if any member of the panel had any prior contact with any applicant they should acknowledge that fact and recuse themselves prior to the panel interviews.---Yes.

I appreciate you don't have the code of conduct in front of you now. Do you happen to recollect what part of the code of conduct you had in mind? ---Section 4.

Section 4?---Mmm.

20 And what is the effect of section 4? Hang on, this doesn't have to be a memory exercise. I can assist you. Volume 2, if the witness can be shown this, of Exhibit 52?---It's page 15 of the code of conduct.

That's page 53 in volume 2 of the documents?---Yeah.

And which part of that page are you referring to?---The top part on conflict of interest, section part 4, 4.1 through to 4.3.

30 Thank you. Can I take you back now to your memory of what occurred in the interview panel process? And before that, ask you what experience you had of taking part in an interview, either as an interviewee or an interviewer for an employment position for a job?---Not within memory. I had not taken part in that particular process.

40 Did you have an expectation as to what would occur?---I had expectations of what to occur and what my intent or duty would have been, would not to have been making a decision based on the actual expertise of the applicant because I had no planning background, but just to get a feel for the person to see if they would be a good fit for the organisation and how they presented.

To your knowledge, did any of the other panel members have a planning background?---No.

What would you say to the proposition that Councillor Hawatt had maybe not worked in planning but by virtue of his experience on council, had accumulated a sufficient body of knowledge about planning to have been able to contribute to the deliberations of the panel, bringing to bear contributing a knowledge of planning law, planning practices?---My

knowledge of Councillor Hawatt was that he would always have an opinion on planning issues and the DCP and the LEP, but whether they were correct or not, I could not say. He would bring possibly his experience in council which would have been quite extensive at that stage, but he would've had no other knowledge apart from the fact of being a councillor.

THE COMMISSIONER: Was there any discussion about having, as a member of the panel, somebody with that expertise?---No.

- 10 MR BUCHANAN: And just to check them off, the general manager, did you regard him as having that sort of expertise that you thought would've been appropriate?---Yes, certainly, because his vast experience in local government, he'd been involved in the hiring of previous directors and whilst he would possibly not have technical knowledge to the extent of a planner he would certainly have an overall view.

Councillor Azzi, did he have a background in planning?---No.

- 20 But did he indicate, in your encounters with him, or in deliberations on council, a knowledge of planning law and practices?---No.

So, you've indicated what your expectations were. Were your expectations met in how the process evolved on 17 November?---No. I, I was disappointed in the way that it evolved because only one or two questions were actually able to be asked off the list before it went off track with a series of questions by Hawatt and Azzi on, possibly, unrelated issues or certainly unrelated to the script that we'd been provided and the questions we'd been provided.

- 30 So if you could look again at page 181 in volume 3, are you able to say how far the panel got through the list with the candidates or did it differ depending on who the candidate was?---It seemed to differ as to the candidate and also who was selected to ask, ask which particular questions.

Was the script – if I can call the suggested interview questions a script – was the script adhered to, to a greater degree with any particular candidate?---I can't recollect.

- 40 And what was the nature of the questions or the subject matter of the questions which were asked by councillors Azzi and Hawatt that went off script?---It was in relation to particular developments along Canterbury Road or, or other developments that I, I can't remember but some, the main ones were regarding Canterbury Road. "How would you handle a difficult situation?" You know, "What would your reactions be? Would you act under the direction of the general manager?" That sort of thing.

Were there questions about acting under the direction of council?---Not that I recall.

Now, I certainly don't intend to be critical in this question that I'm asking you or the following questions I'm asking you, but to what extent did you stick to your assigned questions? Or did you also ask questions that weren't on the list of suggested interview questions?---I may have asked a supplementary question to one of their questions, just to, as it were, help the applicant with an explanation. But generally after I tried to answer, ask my questions and it went off script, I would just sit back and let it evolve.

10 Again, I'm not attempting to be critical of you, but did you have a mobile phone with you during the exercise?---Yes. I probably would have.

And would you have consulted it during the interviews?---I don't recollect doing it.

Was there any period of time when you shut your eyes for a length of time during the interviews?---I cannot recollect that but it is likely if it had been towards the end of the day. The seats were hard. I had a very sore back. I would have possibly just stretched out to - - -

20

Did you form – I withdraw that. Was any particular candidate treated in any particular way that was different from the others?---Jones was treated very harshly.

This is Ms Karen Jones?---Karen Jones. The other female candidate was also given what I would term a hard time.

Ms Bishop.---And it was just fairly aggressive and at sometimes unpleasant.

30 From whom?---Azzi and Hawatt.

And if you can just give us an indication of the nature of the aggression or unpleasantness that was directed to, at least those two candidates?---I cannot remember any specifics but it was more in, in terms of what, how it, again, it was how would you react to certain circumstances and directions from the general manager but the precise nature of them, I just can't recollect.

40 Do you remember a candidate, Simon Manoski?---I remember there was a candidate Simon Manoski but unfortunately I cannot remember him personally.

Mr Stavis was a candidate obviously?---Yes.

How was he treated?---It was obvious that he was treated a lot more gently than the previous candidates. The questions were such that he could provide a response. He had the benefit I think of being local so he would have had some knowledge of some of the background to some of the questions, but it

was certainly not as aggressive as the previous councillors, previous, previous applicants I mean.

And again, the treatment of him coming from?---Hawatt and Azzi.

10 When you concluded, the last candidate was Mr Stavis and he left and you said that there was then a discussion, was there a discussion between the panel members about the relative merits of the candidates?---It was not necessarily about the merits but who they preferred as the candidate going forward.

And what do you recall of that discussion on that subject?---It was fairly short. There were two preferences for Stavis and two preferences for Jones.

And can you tell us who for whom?---Oh, the general manager and I had come to the conclusion that Jones was the, should be the preferred candidate and Azzi and Hawatt, Stavis.

20 And was that quite clear? I'm asking now about your last answer. Was there any indication of a preference on the part of either Councillor Hawatt or Azzi for Mr Manoski?---No, not that I recall.

Or any other candidate at all?---Not that I recall.

30 Can I ask you did you form a view about who interviewed well, as in performed well?---I felt that Karen Jones performed well because she was handling the aggression of Azzi and Hawatt in a, well, the questioning was robust and she handled herself well and didn't take any backward steps, as I'd put it that way.

How did Mr Stavis perform in your opinion?---Well, Stavis was asked what I would term soft questions, he came across very well, came across very personable, but that is my only recollection of the, of the interview.

40 Why did you prefer Ms Jones as your preferred candidate?---I think I outlined that in an email subsequently to the general manager, but there, my recollection is that her qualifications were quite well above the standard of all of the other applicants, she performed well, given the circumstances of her interview, and on that basis I just felt that she was a much better candidate than others.

If you could turn in volume 3 to page 239 please. There's a copy on the screen as well. Was that the email that you spoke of a moment ago?

---That is the email I sent to the general manager, yes.

It's dated 26 November. Was there any reason you didn't send it any earlier?---No. Well, no. I just - - -

Sorry?---I just didn't get around to doing it.

Did you send it in response to a request for - - -?---No.

- - - an indication like that?---No. I realised that I hadn't confirmed in writing my opinions of the, of the results of the interviews and I felt that I should do so and I got around to doing it then.

10 And is there any change you'd make now to what you've recorded there as to your views about preferred candidate at that stage?---No. Well, at that stage there were only three preferred candidates that were discussed at the follow-up meeting and that is why I've included 1, 2, and 3.

Who indicated that Simon Manoski was a preferred candidate, or should be included in that list?---That would've been the result of discussions between myself and the general manager as to - - -

20 At the time, or later?---Probably, I think it was subsequent to, following, following the meeting. It wasn't within the meeting, it was a follow up meeting that we would have had.

Do you remember that discussion?---No.

Do you remember the general manager at any stage indicating to you that he thought Simon Manoski was in the mix?---Yes.

30 You do?---He, he indicated that, well, at that stage there were only three candidates, so in this email I've just ranked them one, two, three. That's the way I felt that they should be ordered.

Now if I could just go back to the questions, you remember that I showed you photographs of the suggested interview questions that were in the spiral bound format?---Yes.

Were interview panel members allowed to provide, or any of them, to provide access to the suggested interview questions to a candidate in advance of the interviews?---No.

40 How do you, on what basis do you say that?---The information that would've been sent out would have been confidential.

How were the recipients of these papers to know that it was confidential and that they weren't to provide access to them, to a candidate in advance of the interviews?---I don't know because I didn't see the way that they were packaged, but indications, they would've had indications that the information was confidential.

When you say that, what do you mean?---Even if it was just for – they would've been told that the information would've been confidential.

Who would've furnished that information?---The general manager would've informed them.

10 Can I put to you an alternative proposition, that nothing might've been said to the interview panel members because there would've been an expectation that of course they wouldn't supply access to the questions in advance, to any of the candidates?---That's entirely possible.

20 And if you accept that proposition, on what basis? Why would you say that there would be an expectation that the panel members should not provide access to the interview questions, to any candidate before the interview panel convened?---You would not give any member, any applicant any advantage over any other applicant. The information itself contained information that I considered personally to be confidential such as the background of each applicant and it's just the very nature of the process. I would consider it improper for any information to be given to any of the candidates prior to the interview process occurring.

You're saying improper. What would be wrong with that?---It would give a candidate an advantage over other candidates by knowing or having foreknowledge of the questions that were about to be asked and would give some intention or indication of the intention of the panel and what they were going to be looking for.

30 Now, go back to the question of whether anything would have been said to panel members in advance of the interviews about the papers being confidential. The business papers for meetings of council and their committees were posted on the council's website, weren't they?---Not all of the papers. There was a section which we used to call committee the whole, but also was ultimately called closed council and they were not put up on the web, it was just simply the items on the agenda were put up on the web but the details were not.

Were the papers for this interview panel put up on the website?---No.

40 How do you know that?---Because they were, well, I don't know, I'm making the assumption that they would not have because they would not have any, any, any interest to the general public.

If they were to be treated as confidential, that would be a bit inconsistent with posting them on the web, wouldn't it?---Yes.

Can I ask you this, can I take you to paragraph 33 of your third statement. There you have laid out, at the time you were asked about it in 2017, the aggressive manner in which questions were asked of some candidates, Ms

Jones in particular. Is it the case, are you still satisfied that Councillor Azzi cut off Ms Jones at one point and said, "Your job is not to make recommendations but to make decisions"?---Yes.

10 Can I take you to paragraph 34. You have recollection that the Councillors Azzi and Hawatt were rebuked by Ms Carpenter and the general manager for their conduct during the panel. Was that during the panel itself, while candidates were there or afterwards or what?---It was not in the presence of the, my recollection is that it wasn't in the presence of the councillors, of, of the applicants.

20 You said, looking at about five or six lines down, "It was apparent that the fact that these," being the two female candidates, "were female was a major factor in their behaviour and they made it clear that they did not want a woman to be appointed, both by their behaviour during the interviews and during discussions after the interviews." What was said in the discussions after the interviews that gave rise to that impression in your mind?---I knew both Azzi and Hawatt over the years with council, and their attitudes towards Linda Eisler in particular, who was a - - -

20 E-i-s-l-e-r?---Yes. The female - - -

Greens councillor?---The Greens councillor. And their approach to her and the attempts to denigrate her in council. So on that basis I determined or gained the opinion that, that they did not have high regard with any female applicants, in particular, in this case.

30 But that's generally.---That's generally. But also the fact that they were a lot more arrogant and demanding in their questioning of both of the female candidates, and in particular Jones, which led me to the assumption or belief that they were not happy with the female applicants, and particularly as they rated Jones in conversation at the end of the, the meeting very low in comparison to everyone else.

You have told us that you expressed your preference for candidates in the email of 26 November, 2014, page 239 of volume 3. What happened to Mr Manoski's candidature?---I don't know. I cannot recollect anything about Mr Manoski.

40 So you can't assist us as to why he ultimately wasn't appointed or whether Ms Jones remained in the mix for longer than he did or anything like that? ---My only understanding, my understanding at that point in time was that, I expressed my opinion regarding Karen Jones. I was aware that Hawatt and Azzi were pushing the case for Spiro and I just didn't realise Manoski had dropped off the, well it seemed to me that Manoski dropped off the radar.

Now, in your email you did say ultimately it is your responsibility. This is an email to Jim Montague taking advice from councillors when necessary.

That was a reference to the statutory power that the general manager had, I take it?---Yes. Yes.

10 THE COMMISSIONER: Mr Robson, you've just said recently that after the interview when you were all ranking the candidates, Councillors Hawatt and Azzi rated Ms Jones very low. During your discussion when interviews had been completed, did you go through a process of the various members of the committee saying, well, I would've put, for example, Ms Jones first, and I would've put Ms Bishop second, or did you actually go through that process?---No. What I do recollect is that as the interviews progressed there was a brief discussion after each interview and the feelings of the committee, the panel, were assessed as to whether they felt that candidate should go forward or not to the next stage. At the end of the meeting, it was just really a general discussion and one of the difficulties had been, and I think Ms Carpenter pointed it out, that as we hadn't followed the script and followed the questions it was extremely difficult to actually assess in a proper and organised manner any of the candidates, so it was really based on the feelings of the panel and how they felt each candidate had presented and also their qualifications as discussed in their resume.

20

MR BUCHANAN: You've referred, Mr Robson, to at least one conversation with Mr Montague after the interview panel about preferred candidates?---Yep.

Was there any conversation with Mr Montague in which there was an indication that Mr Stavis would be a preferred candidate?---Not that I recollect.

30 Well you know that ultimately an offer was made by Mr Montague to Mr Stavis that he'd be appointed director (city planning). You know of that fact I take it?---Yes. Yes.

Did that come completely out of the blue to you or did someone indicate that Mr Stavis was in the running for the job?---It was an indication that I got after the, as a result of the general manager coming in to my office one afternoon and saying, basically, that he'd be threatened by Azzi and Hawatt and would I have the numbers to support him in council.

40 So if I can ask you to have a look at your fifth statement, the one dated 6 June 2017, this is, and if I can just ask you to keep a finger on your third statement open at page 10, this is where you provide a substitute paragraph 36 for the paragraph 36 in your third statement?---Yes.

And I'll come to it later, but we will need to know why you thought it desirable to make that substitution, but is it the case that in paragraphs, in paragraph 5 you set out the conversation with Mr Montague that he had with you that afternoon in your office?---Yes.

Can you tell us now just from your recollection what your best recollection is of what Mr Montague said?---Well - - -

10 Keeping your focus on us rather than the statement at the moment?---Yeah, yeah, no, sorry. No, my recollection is that the general manager came into my office, he basically said that he'd been threatened by Hawatt and Azzi with regard to the appointment and they wanted Stavis to be appointed and he asked me whether if it came to a decision of council whether I had the numbers in council to support any motion that they might put forward to fire him.

What did you say?---Well, I basically said that he would not get the support of Hawatt and Azzi, neither would he get the support of Vasiliades and Nam, that it was unlikely he would get the support of Fadwa Kebbe and Adler. Saleh, I, no-one knew. And the only people that would I suggest support him would be myself, Paschalidis-Chilas and Eisler.

20 So Fadwa Kebbe's one, it's first name and family name of - - -?---Yeah, sorry.

- - - one of the councillors?---Fadwa, Councillor, former Councillor Kebbe Adler.

And how did the conversation end?---The general manager left.

Now, do you as you sit there recall whether the nature of the threat to which the general manager referred was outlined to you?---If you don't fire Stavis you're gone.

30 If you don't?---Fire, don't hire, not fire, don't hire Stavis you're gone.

Okay. Now, if you could just have a look at paragraph 5 of your fifth statement, you see you've recorded there in the terms, "Azzi said to me, 'You hire him or it's your job.'" And you made that statement on 6 June, 2017.---Yes.

And you obviously believed it to be correct at the time you made it?
---Yes.

40 You've also set out in paragraph 5 a recollection you had in June 2017 that Mr Montague said to you, "Azzi and Hawatt have categorically rejected the possibility of employing Karen Jones."---That's my recollection at the time, yes.

And do you recall it now, is that still something you recall?---(No Audible Reply)

I'm not asking you to perform miraculous feats of memory.---No, I mean it's - - -

We don't expect it.---No, no, I - - -

So if you can't, if you say that you can't recall it now, it's absolutely fine. ---I can't - - -

10 I just need to know.---There were words to that effect but I just cannot recall that they were the words.

Thank you. What happened after that in relation to the recruitment of someone to fill the vacancy for director of city planning?---The general manager came in to me one afternoon and said that, "I have decided to hire Spiro Stavis."

20 How long after him coming into your room and having the conversation about having been threatened and what are the numbers like was that advice to you from Mr Montague?---I think it was several days later.

And was it a surprise to you when he said it?---Yes, yes, it was.

Despite the conversation earlier it was still a surprise to you? I'm not saying it shouldn't have been, I'm just - - -?---No, no, no, it was a - - -

30 There's no judgement in what I'm asking.---No, no. I'm trying to, trying to remember. I, it was, my feeling it's more resigned to the fact that a decision had been made. After the initial discussion about the numbers I thought that would be the trend, so when the decision was actually made it was a case of, well, you know, it's your decision, it's my job to support the general manager and that's what I'll do.

There's some evidence before the Commission that Mr Montague said that you and he relented on the question of who the appointment should be. Volume 5, page 254.---No, I don't recollect that.

40 So you don't recollect that so far as you were concerned, you agreed to give in and despite thinking that he was the third most preferable candidate, he should be, in fact, appointed? Mr Stavis, that is?---In the terms of - the statement that I made that Jim had decided to appoint Stavis, it may have been at that time in the same conversation, I can't recall, but when he told me that he'd made that decision, that was my position that it was my job to support him, it was ultimately his decision. He had to weigh all the factors involved in it and come to the conclusion it wasn't my job to tell him who to employ.

And I apologise if this seems like a silly question but why was it your job to support the general manager? If you could just explain it to us?---It's my

understanding, it goes back to my extensive experience on boards where you would have a board meeting, you'd have your disagreements in the board and then when you came out to face the general public, the board would be united and the fights would be put behind you. And this was a case in point where the general manager was given the job of making a decision, he made that decision and I felt that it was my position to support and not undermine or question, publically anyway.

10 Thank you. Can I take you back to your third statement which is the longer one dated 9 May 2017 and page 11 paragraph 38. You say there on or about 8 December 2014, Jim Montague told me he was going to award Spiro Stavis the position?---Yes.

Do you think that is right, that that was on or about 8 December? My next question is going to say why, on what basis do you select that date?---No I can't recollect why I specified unless I had some notes been made or there was something, some email somewhere that jogged my memory, but - - -

20 Well if I can, in fairness, inform you that the Commission knows that the offer of employment was made in writing to Mr Stavis by Mr Montague on 8 December 2014. Do you think that might've been the source of you assigning that date in paragraph 38 of your statement?---Yes.

Paragraph 39 of your statement you say that not long afterwards, Mr Montague told you that he had received a written complaint from Judith Carpenter about the awarding of the position to Mr Stavis and about the interview process?---Yes.

30 You recall seeing the letter, you were shown it but you don't recall the contents of it?---No. I cannot, well, at the time of making the statement I certainly didn't recollect the contents of it except that it was extremely critical and having seen the evidence then I could recognise that letter was the one she had shown - - -

If I can show you volume 4, pages 1 to 3, please?---Sorry, what pages were they?

I'll probably show you a fresh volume?---Okay.

40 If you could turn past any index that might be at the front and page 1 is an email from Ms Carpenter to Mr Montague dated 12 December 2014? ---Yeah.

Referring to a conversation the day before and saying please find her letter of concern in relation to the appointment of Spiro Stavis. Then if you turn over the page, if you could just scan the two page letter that appears there? ---Yes.

And my question is, is that the letter that you recall being shown?---Yes.

And was there a conversation between you and Mr Montague about the letter or about the subject matter of the letter at the time?---Only along the lines that the GM was quite concerned about the letter and I think he had also received some feedback from the staff and he discovered that Spiro had been rejected by council for an application in 2013. So he received some pushback from the staff and he was going to follow it up with getting more extensive references from, about Spiro.

10

And what was the nature of the concern which Mr Montague expressed? ---Oh, that he possibly, well, really my understanding of it was that there might have been further information that might have influenced his decision, had there been full references and full up-to-date references.

So, was he, there are perhaps more possibilities than these but one is a concern that you made a mistake. Another would be a concern that you'd done the wrong thing and that that needed to be remedied.---That could be a possibility but that, that's not something I'd ask the general manager. I know that he was very concerned about the blowback from the staff and especially about the fact that he discovered that Spiro had actually been rejected by Canterbury Council for a lower level position in 2013.

20

And did the general manager indicate to you which member or members of staff had conveyed this information about a unsuccessful application for a position by Mr Stavis in 2013?---No.

Or what section or division or department in council the member or members came from?---It would have been the department that Spiro would ultimately have been responsible for, which was the Department of Planning.

30

And did Mr Montague tell you what he was going to do or not?---"I'll fix it," was I think the response.

But at that stage, you didn't know what he proposed to do to fix it?---I, I, I understood that he was going to follow up on further references and then well, see where it landed.

40

So if I could refer you to paragraphs 40 and 41 of your first statement, the longer one dates 9 May, 2017. You say that on 17 December, Mr Montague told you that he was concerned and that despite the pressure of being brought to bear by Councillors Azzi and Hawatt, he, I've added a word in there and I should recast it. "On 17 December, 2014, Montague told me that was concerned and that despite the pressure brought to bear by Councillors Azzi and Hawatt, he was going to rescind the offer to Stavis."---Yes.

And then you say following that meeting, Mr Montague told you that he had met with Councillor Hawatt in his office and informed him of his decision and he indicated the Councillor Hawatt, did not offer any objections.---Yes.

Do you recall that?---I recall being told that. I was not present at the meeting.

10 All right. And you go on to say, "Montague also told me that he had contacted Azzi by phone and when he told him of his decision, Azzi abused him and hung up."---Yes.

Do you recall that being told to you?---Yes.

Now, could you turn to, in volume four of the document, please, to page 28. In your statement, the third statement at paragraph 42, you say on 18 December, you received an SMS message.---Yes.

20 Do you see there is set out a message to Brian Robson on 18 December 2014 at 10.20?---Yes.

That's AM?---Yes.

And have you seen the message that's recorded there?---Yes.

Does that accord with your recollection of the SMS you received?---Yes.

And that you're referring to at that part of your statement?---Yes.

30 And then you say on 19 December you sent an SMS to all councillors, and if I could ask you to go to your statements now and the exhibits to it, and one of them, they might not be numbered. One of them looks like this? ---Yes.

And indeed if I could take you – it's also in volume 4 at page 33?---Yes.

40 And do you – what can you tell us about that text recorded as being from you on 19 December 2014 at 11.23am, what were you telling councillors there?---Well, prior to that as per my statement I cannot, I received an email from Nam and also I received an email from Vasiliades which was basically the same email saying call a special meeting to discuss it.

In the exhibits to your third statement, is it exhibit 3? It looks like that? ---Yes, I think so.

Are you able to find it?---No. Is it on my statement we're talking about?

Yes?---Okay. Too many books.

It's on the screen, Mr Robson?---Good. Yes, that is, that I received from Ken Nam and I think there was another one also, the same form from Vasiliades.

10 And the email addressed to councillors at 19 December at 11.23am was your response to those emails or impelled by those emails?---Yes. First of all because there's a procedure in which they all should've been aware, and certainly Hawatt was aware of a means of calling special meetings and I couldn't just call a special meeting off the bat and neither could the general manager. And what I chose to do – because I was aware that these emails were floating around – was to actually point out the fact that there were only three applicants, ultimately brought the three. The GM offered a position subsequent to that, he became aware of information, he withdrew it and making the offer for all councillors to go, if they were concerned about it, to talk to the general manager and he would explain and show them any confidential information he received regarding the applicant. Well, (not transcribable) Stavis, sorry.

20 Had you seen that confidential information about Mr Stavis? Did Mr Montague show it to you?---I'm pretty certain he did but I can't recollect specifically having been shown, but I'm pretty certain that I did see it because it was fairly damning in its nature.

Excuse me a moment. If the witness could be shown please volume 4, page 8 through to 10. And I won't ask that this be displayed on the screen. Everyone has access to it, the substantive content is subject to a section 112 order that, Commissioner, you have made.

30 THE COMMISSIONER: Yes.

MR BUCHANAN: But the witness can be invited to ask whether he recognises the documents. So have you got those pages, sir?---8 through to 10?

Yes.---Yes.

And do you see that 8 to 9 is a reference that it was obtained from a Ms Warton, W-a-r-t-o-n, at Botany Bay City Council?---Yes.

40 Conducted on 16 December?---Yes.

Do you recognise that?---I recognise that as the document because of the nature of the fact that it was from Botany. I knew that there were two references, one that had come in from Botany and one from Strathfield.

If you could look then at page 10. Again – I withdraw that. That is an email from Ms Carpenter to Mr Montague on 16 December, 2014, in which she relates a conversation with a Silvio Falato, F-a-l-a-t-o - - -?---Yes.

- - - group manager (planning) at Strathfield Council.---Yes.

And again scanning that quickly, is that a document that you have seen before?---Yes.

In the context of Mr Montague showing it to you?---Yes.

10 Thank you. And did you share his concern about the fact that an offer of employment had been made to Mr Stavis after reading those documents?
---I felt that given those documents and the information contained within him I felt that Stavis would not be suitable.

20 And what happened next after, after Mr Montague told you that he had told Councillors Hawatt and Azzi that he wasn't going to proceed with the offer of employment to Mr Stavis?---From memory it all seemed to have gone quiet and then the general manager, and I think we discussed it, decided to put out a memorandum outlining all of the events which took place, including the reasons for making, sorry, for him making an offer and the fact that he had rescinded that offer and that from memory the memo stated that we were going to reopen applications for the position.

Can you have a look, please, at volume 4, page 46.---Yes.

And over to 47 and 48.---Yes.

Is that the memo you had in mind?---Yes.

30 It's dated 23 December, 2014 to the mayor and all councillors, subject, appointment of a new director of city planning.---Yes.

Did you have any input into the compilation of that memo?---No.

Did Mr Montague talk to you about whether he thought that applications to fill the vacancy would have to be reopened at any stage?---No, I think the first notice I really had of that was in the memo, but it was a natural assumption because I don't know given the circumstances whether Karen Jones or Manoski would be interested.

40 Can I take you back a step to some earlier documents. If I can ask you to have a look at page 35 of volume 3.

And this sets out a number of SMSs extracted from Councillor Hawatt's mobile. I do apologise, sorry. If I said volume 3, I meant volume 4?---I can't find it.

That's a good reason why?---It's all right, we're on the screen. I can read that one. Yes.

So did you receive a text to the effect of the one at the top of the table there that is dated 19 December at 11.41am?---Yes.

And so it appears to be, if you take it from me that it was sent by Councillor Hawatt to all councillors?---Yes.

Do you recall what happened after that?---No. Not specifically.

10 Well I'll take you to some documents but I notice the time, Commissioner.

THE COMMISSIONER: Right. We'll adjourn until 2 o'clock.

LUNCHEON ADJOURNMENT

[1.01pm]