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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 2 MAY, 2019

AT 10.00AM

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THE COMMISSIONER: Now, before we resume Mr Hawatt's evidence, I have something else. I'm sorry, instead of Mr Stewart, is that correct?

MS SIRREP: Yes, that's right, Commissioner.

THE COMMISSIONER: All right. Thank you. First thing, any administration?

MR BUCHANAN: No, Commissioner.

10

THE COMMISSIONER: All right. Natasha.

THE COMMISSIONER: Mr Neil.

MR NEIL: Thank you, Commissioner. Commissioner, could I just raise one matter on the transcript which is of substance at page 7439 yesterday.

THE COMMISSIONER: Hang on. Yes.

10

MR NEIL: At about line 10 in the question that I'm reported as asking, if you just have a look at that document, it's dated 2 February, that's the letter of Mr Montague's, and it's from Mr Montague to the mayor advising that he pretended to proceed with the appointment of Mr Spiro Stavis. Now, I thought I said - - -

THE COMMISSIONER: Intended?

MR NEIL: Intended, and that's what the letter says.

20

THE COMMISSIONER: I have no recollection of you suggesting Mr Montague was pretending.

MR NEIL: No, no.

THE COMMISSIONER: So we'll amend that to intended.

MR NEIL: Yes, thank you, Commissioner. I'm obliged.

30

THE COMMISSIONER: So that's transcript 7439 at line 9, instead of, "He pretended to proceed," it is, "He intended."

MR NEIL: Thank you. And could that letter be thrown up on the, or played on the screen. It's volume 5, page 11. I just want to briefly draw your attention again to this letter, Mr Hawatt. Do you see in the first paragraph that Mr Montague refers to discussions he'd had on the day of 2 February with the mayor?---Yeah.

40

And then he said, "I confirm that following receipt of legal advice, copy attached," do you see that in the document?---Yeah.

Now, could I ask, Commissioner, if the next page, volume 5, page 12, might be shown. If you'd just take a moment, this is an email of Monday, 2 February, 2015, from Mr Montague to Mr Bryan Belling, who is a solicitor, and asking for - - -

MR BUCHANAN: Commissioner, I object. Could I respectfully through you inquire as to whether there is any probative evidence to be adduced

from the witness by reference to these documents or is what is occurring the making of submissions on Mr Neil's client's behalf? Because these are not the witness's documents and there's no suggestion that he would have had access to them. There does rather seem to be through these questions an attempt on Mr Vasil's behalf to make submissions.

THE COMMISSIONER: Mr Neil?

10 MR NEIL: It is a little unfortunate that Counsel Assisting can't understand the basis on which I'm about to ask these questions and on which I'm asking these. There was a meeting at about the same date at which Mr Montague made matters or said matters, said things, and I am entitled to draw attention of the witness to what was in Mr Montague's letter and, I would have thought, in fairness to what immediately follows in the documentation about legal advice because I want to ask this witness what, if anything, he can remember Mr Montague said at the meeting about any legal advice, if any, that he'd received from Mr Belling.

20 THE COMMISSIONER: Can I just pause there for a minute. The meeting that you're referring to is the meeting with Mr - - -

MR NEIL: Alha.

THE COMMISSIONER: - - - Alha?

MR NEIL: Yes.

30 THE COMMISSIONER: My recollection is that that meeting was before 2 February.

MR NEIL: It's said to be on the 1st, and I asked the witness yesterday could he pin down the date. I thought he couldn't be immediately clear on whether it was the 1st, it might have been a day or so after, but it's within 1, 2 or 3 February.

40 THE COMMISSIONER: Mr Neil, I've got no issue with you asking a question about whether Mr Montague at the meeting referred to legal advice. The fact that on the evidence it appears that Mr Montague did at some point obtain some legal advice from K&L Gates, where we have no evidence that Mr Hawatt ever saw the advice at the relevant time, I don't really see the value in taking him to these documents. If you want to ask him questions about his recollection of what Mr Montague said at the meeting, I will allow that.

MR NEIL: All right. Thank you for that, Commissioner. Perhaps I was being a little too particular, but let me ask this question. Mr Hawatt, at the meeting you had with Mr Alha and Mr Montague, did Mr Montague say

anything about whether he had received any legal advice from a Mr Belling?---I, I don't recall, no.

Did he say he'd received any legal advice from any solicitors about the Stavis matter?---I can't recall discussing legal advice.

All right, thank you. Now, Commissioner, might the witness be shown volume 5, page 9. This is a series of SMS messages and for convenience they're numbered 1 down to 13 on this page. Do you see that?---Yep.

10

I just want to ask you first about the first one, number 1. This would appear, as I understand it, to be an SMS from Mr Alha to you. If I'm wrong about that I'll ask to be corrected by Counsel Assisting.---Yes. That's, no, that's correct, yep.

Thank you. And it's on 30 January, 2015, at 7.20.43pm, correct?---Yes.

20

And it says, "Would you," presumably that means you, Mr Hawatt, "be willing to leave Jim alone and he will review Spiro's employment until his term finishes and get the heat off? If you are willing, we can have a private meeting." Do you see that?---Yes.

Would that text be part of the genesis of the meeting taking place?
---Correct.

And there seems to be a short follow-up at 7.58. It says, "Can we sort it out, yes or no? Think about it." Do you see that?---Correct.

30

Now, is that about whether or not you might be prepared to do what's asked in the first message?---Correct.

Then it would appear that you reply, on 30 January, 2015, at 8.14, et cetera, do you see that?---Yes.

You say, "It's not up to me any longer. Many councillors are angry with his actions. We all tried on a number of times, it all failed. We're at the point of no return. The only thing I can suggest, if Jim wants to put what he wants in writing, that way I can take it back to the group for discussion. Let me know." Do you see that?---Correct.

40

Now, do we, can we gather from that that you wanted to go back and talk with other councillors?---Correct.

And you didn't back and consult George Vasil, did you?---No.

Thank you.---Yeah.

Now, number 9 is apparently from Mr Alha to you. Do you see that?---Yep.

"There are people that protect their friends, thanks." And then at number 10 seems to be from you to Mr Alha, "I hope he does not renege again." Do you see that?---Yes.

And then number 11 is Mr Alha saying, "Don't worry." Do you see that?
---Correct.

10 Did you understand that was Mr Alha giving you an assurance on behalf of Mr Montague that he wouldn't renege again in respect of Mr Stavis's position?---Correct.

20 And what did you understand to be the relationship between Mr Alha and Montague?---Oh, I just, I think, well, they were, oh, look, everybody got involved in regards to sort out this, this issue. I mean, people from, from out of, everywhere, they were coming in, trying to sort it out. So he's one of the people, presumably, Montague might have, he might have called Montague to give him support. And then he might have, he knew me, so he's trying to coordinate it, trying to resolve the problem on behalf of Mr Montague.

Did you understand Mr Montague and Alha to be friends?---Well, he must have been able to communicate with him, yes.

And then we know there was this, the meeting. I won't ask further questions about that. But could I ask if you be shown volume 4, page 62? This is one entry on one page. It's an SMS that I understand is from Mr Stavis to you on 23 December, 2014, at 10.47.48. Do you see that?
---Yeah, yep.

30 And Mr Stavis is saying, "Hi Michael, I'm sick to my stomach, mate, for what he's done to me. I know you're on my side, but please, I need this job. Sorry for harping. Spiro." Do you see that?---Yeah.

It's plain, is it not, that Mr Stavis was desperate to get the job. Do you agree?---Well, it, it sounds like he, he left his other job to take up, take up the new one, and the guy was left in a, in a bad situation, yes.

Yes, he'd resigned, hadn't he?---Correct, yes.

40 And as far as you understood, he'd been harping on about this matter with you. Correct?---Correct, yes.

And as of the first week of February, 2015, he was still very keen to get the job, wasn't he?---Correct.

And right throughout February, till the formal announcement was made that he'd got the job, correct?---Correct, correct, yes.

There was no need for anyone to keep him warm, was there?---No.

They're my questions. Thank you, Commissioner.

THE COMMISSIONER: Thank you, Mr Neil. Mr O'Gorman-Hughes.

MR O'GORMAN-HUGHES: No questions, Commissioner.

10 THE COMMISSIONER: Thank you. Mr Pararajasingham.

MR PARARAJASINGHAM: Thank you, Commissioner. Mr Hawatt, you can hear me all right?---Yes.

I appear for Mr Stavis and I've just got perhaps four or five short topics to cover with you. I just want to firstly ask you about the environment into which Mr Stavis entered when he commenced his employment at Canterbury City Council. We've heard evidence, and staying with this war analogy, of quite a great deal of bloodshed and it's the case that prior to that 20 you had perceived certain problems within the planning department. Is that a fair comment?---Correct, yeah.

And on that topic you gave this evidence, this is at transcript 6372, this is at line approximately 15. In answer to a question you said this. "Probably the staff, the planning staff in council, they always played games from, from memory and they were sitting, a lot of development submissions, application had been sitting there for months and months and people would ring up and say, asking me what's happened to my, my DA, my application, and then you find out that they're just sitting on it and this is not right, 30 people spent, people, I don't care whether they're developers or applicants or whoever they are, so - - -" And then Counsel Assisting said, "Yes, that's enough on that, thank you." Can I just ask, what criticism are you making there?---Oh, look, the, there's a been a lot of, like, anti, anti-development, anti-support on what council wanted to move on with, because there was a lot of pressure on council from the State Government in regards to delivering certain numbers of, of residential units or to developments, and we had to deliver so many within certain number of years, and we were under obligation to, to start at least looking favourably at, at the various areas like Canterbury Road and around the CBD of, around the railway 40 stations in order to increase those number of, of developments and units. And some of the strategic planners in there, unfortunately they, they've been in the, in those positions for many years and, and it's, and it's very difficult for some of them to accept a change, they're so used to the same process and they had no vision and they were just happy to say no to everything basically, and, and I received many complaints and there's others - - -

MR MOSES: Commissioner, I object to this evidence. I mean this is a nonsense. I mean the planning staff for whom I act should not be labelled

with this general and vague assertion by this witness. It doesn't reflect well on him to be making these general assertions concerning these individuals, and I object to that. If he's going to give evidence in this way it should be specifically what is it that he's talking about rather than making derogatory remarks about the planning staff, that they were quite happy to say no to everything. That's a very serious assertion to be made by the witness.

MR PARARAJASINGHAM: Commissioner, I was going to ask this witness to provide some specific examples once he finished this answer.

10

THE COMMISSIONER: All right. Look, he's given the evidence at 6372, you've asked for some clarification at a very general level, which I think Mr Hawatt's now given. If you wish to pursue this, if you could ask for either specific examples or whatever you had, if you had planned to move into that area, that's appropriate.

20

MR PARARAJASINGHAM: Yes. So, Mr Hawatt, you've heard that. Can you provide some specific examples of what it is you're referring to?---Oh, look, there's, I mean, I mean I wasn't aware of it until people started calling regarding their planning proposals and they were sitting on, sitting on it for months and it never went, went across back to the Gateway for, for determination.

I'll stop you there. Are you thinking of a particular - - -?---No, no, general, there was a lot of calls I was getting. It wasn't any, I don't recall any specifics, I'm talking about the general number of calls I received in regards to, to this.

30

To different properties?---And there's one in particular, and there's one in particular who, who actually was threatening to take, take the, those people to court.

THE COMMISSIONER: All right. Which property was that?---That was in Earlwood, in whatsaname, I mentioned it, Sam Pampris's one.

I'm sorry?---I mentioned that before, a guy called Sam Pampris. It's in Earlwood.

40

Okay.---He was going to take, take them to court. He had evidence to show that they sabotaged his, his, his actual planning proposal (not transcribable)

MR PARARAJASINGHAM: When you say "they," who are you referring to?---Again, Mr Moses doesn't seem to like to hear this but - - -

THE COMMISSIONER: No, Mr Hawatt. It's my inquiry. If you're asked a question and I allow it, just answer it. Now, you just said the statement evidence that they - sorry, Mr Pampris alleged that there was sabotage of his, what, application?---Yeah, yes.

And he said to you the sabotage was by whom?---By strategic planners from, from that area, same area that was mentioned.

Strategic planners at council?---At council, yeah.

MR PARARAJASINGHAM: And can you tell us approximately when this was raised by Mr Pampris?---I, look, these all have been going over the years, I have to say.

10

THE COMMISSIONER: No, no, no. We are focussing at the moment on a particular example that you have raised in answer to the question.---The Mr Pampris one could have been within, within that five year period, that '12/'13/'15, around that. I don't remember the date but there was a specific time because he, he called me back and he was complaining and threatening to take action.

So you're putting it down to the period 2012 to - - -?---Maybe around, around maybe after that - - -

20

- - - to 2015?---'15, yeah. I mean it's a big period. I don't recall the exact date. You'll need to talk to him.

MR PARARAJASINGHAM: And do I take it Mr Pampris was a developer?---No, not really, no, he wasn't. He was just a, I, I think he was just a small-time, doing small projects from, from memory, but he is more involved in, in, in the entertainment area. He was mainly in Greek entertainers.

30

Okay, you've given us one example. Are you able to give any other examples?---Oh, look, there was, there was a number of developments that were completed, just planning proposal that was sitting, that have been just left there for months and I think it was acknowledged and I remember reading one of the transcripts that - - -

THE COMMISSIONER: No, no, no, no. We're after particular examples. ---I don't, I don't remember. There were a number of them. I don't remember the specifics. It was just general calls regarding the applications. I don't recall specifically which ones but there was a number of them.

40

MR PARARAJASINGHAM: So as you sit there now, the only example that comes to mind is the Pampris example?---Yeah, because I, he called me and spoke to me about his, he showed me the evidence as well.

Thank you. Just one moment. Can I take you to some evidence you gave, this is at transcript page 6790. I'm just going to ask you some questions about some evidence you gave. This is at approximately line 27. You were asked this question, "Was there any discussion which you were present or

party to with Mr Stavis about what happened to the previous director?" Answer, "I think we could have, there'd been a lot of casual discussions that we made over a period of time. I can't say yes and I can't say no." Can I ask, what was the nature of the casual discussions that you had with Mr Stavis that you refer to there?---Oh, could be just the complaints that we were receiving, the, the issues with the controls, DCP controls we had, they, they weren't working. See, look, the reasons we used to get a lot of calls - -

-
- 10 THE COMMISSIONER: No, no, no, no, no. We're just looking at whether you can give us some more details about this discussion where you were present or party to with Mr Stavis where there was a discussion about what happened to the previous director.

MR PARARAJASINGHAM: Or discussions.

THE COMMISSIONER: Sorry, discussions.---Oh, they were just general complaints maybe that received, again just general stuff.

- 20 MR PARARAJASINGHAM: And when you say, "general stuff and complaints received," from - - -?---Regarding DCP, regarding the, the delays and all these things, yeah.

From members of the public or - - -?---Well, applicants, to me they're all members of the public. I mean, as soon as an applicant comes, puts an application to council, they're still a member of the public

So just so I understand, what you're referring to there are complaints made by applicants?---Yes.

- 30 And then if we just go to line 32 of the same page. The question was asked, "Did you ever indicate to Mr Stavis that you wouldn't want him to go the same way as the previous director?" Answer, "I could have. I don't recall. It's something not unusual for me to complain about. I just can't recall." Just to be clear, can you tell me, what was not unusual for you to complain about?---Like, if there was a complaint about something, I would, I would say it. I don't hold back.

- 40 So you're saying that it was not unusual to complain about the complaints? ---Yes, correct. I, I let it go. I don't hold back.

And in that passage that I just took you to, it contemplates the possibility that you told Mr Stavis that you didn't want him to go the same way as the previous director. You see that?---Sorry, yeah. (not transcribable)

My question is, why would you have said something like that to Mr Stavis? ---I just wanted to, somebody with a, with a vision. Somebody with, with

an open vision to, to support people and, and assist. Not sort of become a Mr No-No. That's, that's basically what my position has been.

Is this a fair statement of your position? The reason why you may have said something like that to Mr Stavis was to assist him to understand the expectations of the job?---Correct.

Now, Mr Hawatt, the problems that you've identified at Canterbury City Council pre-Stavis – I'll just use that expression – these were a source of frustration for you?

10 MR MOSES: I object.

THE COMMISSIONER: Yes.

MR MOSES: There's no evidence of problems at the council that have been identified by this witness. What he has done is relayed to you, Commissioner, what he was informed by developers in relation to matters. He's given no evidence as to any actual understanding himself of any asserted problems, let alone what those problems are. With all due respect, you'd have to be very careful about this, because part of the case theory, no doubt, of this particular witness is that he wishes to assert that there were problems with the way in which the council's planning department was operating under Mr Occhiuzzi, and that Mr Stavis was being brought in, in order to deal with those problems. We don't concede that for a moment. So if they're going to be relying upon that as something that's a credible assertion, then they're going to need to do a bit better than that with these general issues being thrown around like confetti by this witness. So we need to have some foundational base for it. Otherwise if this is just being led for some other purpose, well, so be it. Just need to be very careful about it.

30 THE COMMISSIONER: Mr Pararajasingham.

MR PARARAJASINGHAM: Commissioner, there is ample evidence in the brief as to some of the problems or perceived problems that were taking place at Canterbury in the pre-Stavis years. Perhaps my friend's objection can be dealt with this way, that the problems that this witness perceived at Canterbury City Council were a source of frustration for you, Mr Hawatt?

40 ---Yes.

In your mind, you were elected to represent the ratepayer?---Correct.

And you wanted to get things done?---Correct.

In your mind, development had stagnated at Canterbury?---Yep.

And in your mind, Canterbury City Council was very gently grinding to a halt in nowhere land. Do you agree with that?---Well, well, it's not grinding to a halt, but it's, it was getting very frustrated, frustrating with the delays and the, the number of calls that we're getting, that they increased.

THE COMMISSIONER: So you were getting frustrated, and - - -?
---Because I was getting too many calls.

10 And you say that you were getting a lot of calls - - -?---Complaining.
- - - complaining about - - -?---Delays.

Delays.---Yes.

All right.

MR PARARAJASINGHAM: But just to be clear, your frustration wasn't just at the fact that you were getting lots of telephone calls. Your frustration was that you perceived development to have stagnated at Canterbury.
20 Correct?---Correct, and I can give you examples if you like.

THE COMMISSIONER: No.

MR PARARAJASINGHAM: Well - - -?---No, but I'm saying, yes, that's - -

THE COMMISSIONER: You've answered the question.---Yeah, okay, all right.

30 MR PARARAJASINGHAM: Please, can we have that example?---Oh, look, you know, there are, for example, the, the way that the, the planners operate and, and I've, I've seen that very quite often, where they have a, a checklist in regards to, yeah, that's, this is all controls, they tick, tick, tick when they go through the planning proposal, but they have no understanding of what's around them, around that particular application. They, they don't take into consideration the, the objectives of those controls, because those controls are based on objectives. And, and by them not taking a, a proper look at the, at the objectives of the controls, and I gave an example before regarding there could be a park, a, a, a road or, there's no housing, the controls are mainly to, to, to protect the interest of neighbours in regards to some light overshadowing, and, and that's why we put setbacks everything else. So when they have setbacks when it's not required and it causes frustration to the, to the applicants and they ring me and say, look, we meet the objectives but they're saying no and, and then, and then you go through this cycle over and over.
40

And what you've just referred to, can you pin that to a specific example?
---Oh, yeah, there's, there was lots of examples, yeah, I can give you

addresses. There's one in Earlwood in particular and we're talking about Mr Maroun, yeah, one, he had one, Mr Maroun had one where he was building a duplex.

But where was this one?---In Earlwood.

In Earlwood.---Yeah.

- 10 Go on.---And he rang me up and he was getting really frustrated with the council and eventually I said, "Look, I'll go out and have a look." So I did go out and all I had to do is just look and I realised council were, the staff were wrong, what they've done, because it was surrounded by a road and they were putting all these controls where it's not necessary because it meets the objectives. The only control that he needed was with the neighbour at the back. So I picked up the phone and spoke to him. So it was Occhiuzzi and I said to him, "What comes first, the objectives or the controls?" And I explained it to him and he agreed with me actually and he said yes and he fixed it up.
- 20 That's one example. If you can - - -?---This is one example and then it just goes on.

Have you got any others?---I've got, I can give you an architect that I sat with, he came to my office, I spent hours with him.

What's his name?---Oh, I'll find it, I'll give you the name if you need it.

- 30 Go on.---He showed me, he showed me a lot of examples of the frustration he was going through and, and you know, he taught me a big lesson, this architect, because we sat down and we drew lines and he was explaining each thing and I was looking at it in a visual way and I picked up a lot of mistakes that the council were doing, the planners were doing in regards to what the architects and planners and applicants are going through and, and, and I became, I realised suddenly it's like, whoa, this is, what they're telling us is not what really is happening, the - - -

THE COMMISSIONER: All right. You're very vague there.

- 40 MR MOSES: This evidence, Commissioner, can only be received of course as his understanding because he's not a qualified planner and - - -

THE COMMISSIONER: Mr Moses, I understand that.

MR MOSES: I know, but I just want to make it for the record because we act for some of the planners and we're not going to have their reputations being debased in this way by general assertions.

THE COMMISSIONER: Mr Moses, I've heard evidence from the planner.

MR MOSES: Thank you, Commissioner, thank you.

THE COMMISSIONER: So I have, I can form a particular view on - - -

MR MOSES: Thank you, Commissioner.

THE COMMISSIONER: - - - the planners. You were asked can you recall this architect's name?---I, I, I, it's my phone, I can give it to you if you like.

10

No, no, no. Sitting there you can't remember it?---I, I don't, I don't remember the name.

Don't look at your phone. You're in the witness box, please.---Yeah, I don't remember his name.

All right. Mr Pararajasingham.

20

MR PARARAJASINGHAM: Thank you, Commissioner. And, Mr Hawatt, I take it you weren't shy to express these views that you had?---No.

And it's likely, isn't it, that these are the sorts of view that you would have expressed to Mr Stavis at around the time that he commenced his employment with Canterbury City Council.---Yes, I would have, I would have, yeah, complained to him about those things.

Do you express these kinds of views to Mr Montague?---Yes, if there was a -- as soon as it goes past the director, then I go to the next level which is Montague, yes.

30

And did you express these kinds of view to other councillors?---Yes, we discuss it as well.

Now, Mr Hawatt, you're aware that as part of Mr Stavis's contract of employment there were a number of KPIs?---Yeah.

You're aware of that?---Look, I don't, I don't remember the exact KPIs, look, I don't know the contracts and stuff to be honest.

40

MR BUCHANAN: Can I respectfully intervene before the next question is asked to inquire as to whether the question that is being asked is in fact a submission dressed up as a question of Mr Hawatt? I think we can well imagine what Mr Hawatt's understanding of Mr Stavis's KPIs would have been and in the circumstances this would seem to fall into the same category as Mr Neil's questions about Mr Montague's understanding of Mr Montague's legal advice.

MR PARARAJASINGHAM: Commissioner, there are actually two specific KPIs that I was going to ask this witness about that concerned certain obligations that Mr Stavis had towards councillors. This witness is ideally placed in my submission to assist you in understanding these two particular KPIs about which we haven't really had any evidence, so that's where I was going.

THE COMMISSIONER: Sorry, do you need to establish what Mr Hawatt's knowledge or understanding of the KPIs is?

10

MR PARARAJASINGHAM: Well, it might assist. In my submission, it has the capacity to assist this Commission to understand the obligations that were on Mr Stavis during his employment. The questions I just asked were just to establish the level of familiarity that this witness has with those KPIs, and if I could be permitted to just go to the two specific KPIs and if my friend has an objection then that can be taken and we can deal with that. But that's where I'm heading.

20

THE COMMISSIONER: All right. Look, I think if, for example, there's a KPI that he had to have a cup of coffee with all the councillors every week, you can just put the substance of that to the witness to see if Mr Hawatt's recollection is that he satisfied that. Are you all right with that, Mr Buchanan, or - - -

MR BUCHANAN: Except that Mr Pararajasingham has indicated that what he intends to adduce is this witness's understanding of the KPIs as presented to him or read out to him and in my submission that will have no value at all.

30

MR PARARAJASINGHAM: Commissioner, with respect, that's not what I'm trying to do. I'm trying to ascertain from this witness how two particular KPIs, how they operated in practice because it concerns obligations that Mr Stavis had towards councillors. So he was there, so this witness might be able to tell us how certain things were implemented in practice. That's where I'm going with this.

40

THE COMMISSIONER: Well, look, why don't you, if you can move to the substance without using words like KPI or whatever. If you can move to the substance of what you want to put to the witness as to whether Mr Stavis did this or didn't do this, then we can see, I think, if it's got any probative value.

MR PARARAJASINGHAM: Certainly. Mr Hawatt, can I ask you this question, are you able to assist us in whether by 30 July, 2015, a process had been implemented, allowing councillors to review major development applications so that councillor concerns could be raised? Now, just to assist Counsel Assisting, I'm referring to what appears at volume 5, page 170. Do you understand my question, Mr Hawatt?---Yeah, I just, I don't, look, I don't, with me, I don't recall specifics. It's normally staffing issue, it's - - -

THE COMMISSIONER: No, no, no, no. You're being asked specifically about, by 30 July, 2015, whether a process had been introduced where councillors could review major development applications.

MR PARARAJASINGHAM: Yes, so that councillor concerns could be raised.

10 THE COMMISSIONER: Now, to your knowledge, was that process in place by 30 July, 2015?---I can't recall that one, honestly. I just, I don't remember it.

MR PARARAJASINGHAM: Was anything like that implemented? ---Look, councillors normally put - - -

THE COMMISSIONER: No - - -?---Sorry, but it's just general, any councillors can make whatever complaint or issue they want. I just - - -

So that's at a general level?---Yeah, general things, yeah.

20 MR PARARAJASINGHAM: So just to be clear, you're not aware of any process or mechanism by which councillor concerns in respect to major DAs could be addressed?---If there's any issues, they, they put it straight to the director and, and raise it with him. It's, that's normal that, you know, we, if there's, if there's an enquiry regarding someone's development and then it goes to the director and that's, and then feedback. So yes, there is a, a very close connections between the councillors and the directors of the senior staff. That's, that's what normally happens, yeah.

30 And it follows, doesn't it, from what's just fallen from you, that if there was any such process, it was informal?---It was informal, yes. It would be, yeah.

Now, Mr Hawatt, you may recall a number of propositions were put to you about the nature of your relationship with Mr Stavis. You recall that happening?---Yep.

You'd accept that plainly throughout your association at the very least you and Mr Stavis were on friendly terms?---Correct.

40 And you said something the other day, and I'll take you to it if I need to at transcript 7202, but you raised something to the effect that you and Mr Stavis may have shared similar cultural values. Do you remember saying something like that?---Yeah, respect, we were respect each, respect for one another, yeah.

And certainly you felt that you understood one another?---Correct.

And it's the case that any friendship that you formed with Mr Stavis continued post-amalgamation. Correct?---Well, yes, correct, because we have, we have that respect, yes.

And over the course of your association with him you must have sensed in Mr Stavis a measure of deference by him to you. Did you sense that? ---Well, the only thing I sensed is that he, he knew that I was, I was receiving a lot of inquiries and there was a lot of communications between him and I because I had a lot, a lot to pass on to him and, and follow-ups.

10 Yeah, we did meet a lot so there was an understanding that I had a lot of inquiries that went through the system.

I'm asking a slightly different question. Let me try it another way. You must have sensed that Mr Stavis held you in high regard?---Correct, yes, he would have.

That he respected you and respected your - - -?---Point of view, point of, whatever.

20 - - - life experience and point of view?---Whatever, yes.

Now, you came to understand that Mr Stavis had a philosophical position on planning that was solutions-oriented for applicants. Correct?---Correct.

And you had a number of conversations with him about this topic. Correct? ---Well, he was solution-driven, he liked to help people, yeah.

THE COMMISSIONER: But did you have conversations with him about it?---I've had, I've had issues and problems and solving - - -

30 So specific issues?---Well, yeah, I used to, I used to raise my own, my own opinion what I think and he used to raise his and sometimes I'm wrong and he tells me, no, it should be this way instead of that way, yes.

Okay.---Yeah.

MR PARARAJASINGHAM: And from your varied interactions with Mr Stavis you understood that this philosophical position that he had was something that he truly believed in.---Yes.

40 It wasn't something he was feigning, was it?---No, no, no, he's - - -

And I want to be very clear about this, Mr Hawatt. You understand that Mr Stavis held this philosophical position before he walked in the doors at Canterbury City Council. Correct?---Correct.

You understood that for Mr Stavis this was in part personal in that you understood that he grew up in the area and observed first-hand the lack of development in the Canterbury LGA. Correct?

10 MR BUCHANAN: We can take leading questions so far, with the greatest respect, but I would submit that this is going to have no weight whatsoever. If this was led from Mr Stavis in any way then the Commission can have regard to that, but essentially what Mr Pararajasingham is trying to do in my submission is simply lead evidence from this witness, which should have been led from Mr Stavis.

THE COMMISSIONER: Mr – sorry.

MR PARARAJASINGHAM: Could I just respond very quickly?

THE COMMISSIONER: Yes.

20 MR PARARAJASINGHAM: True it is I led this from Mr Stavis and this witness is in a position to corroborate that. If Counsel Assisting is going to concede that Mr Stavis held a philosophical position of being pro-development prior, through, before, prior to walking through the doors of Canterbury City Council, I will move on.

MR BUCHANAN: No, I'm not making any concessions. What I'm simply doing is raising the question of the value of the evidence to the Commission. There is no, there could be no objection to question about, well, did Mr Stavis say anything to you to indicate the source of this philosophical position that you understood that he had.

30 THE COMMISSIONER: I've got no difficulties with you exploring with Mr Hawatt, probably along the lines that Mr Buchanan's just indicated, did he ever say this, did he ever do this, but in a sense, what you are trying to do is get evidence of Mr Hawatt's view given that Mr Stavis may have grown up in the area or experienced this, and that's really of no probative value for me. If you want to explore this, it's got to be on the basis of Mr Stavis said X to you, or Mr Stavis did this during the period that he was a director.

40 MR PARARAJASINGHAM: Commissioner, I agree wholeheartedly. Implicit in my questions, and perhaps I should have made it explicit, was that these were things that Mr Stavis had said to Mr Hawatt. Yes, so perhaps I can - - -

THE COMMISSIONER: Yes. If you can pursue it on that basis.

MR PARARAJASINGHAM: Yes. Mr Hawatt, you've given some evidence as to your understanding of the philosophical position that Mr Stavis had. What is the basis of that understanding that you came to?---Oh,

just, he was a, a planner who understood the, the issues associated with Canterbury, it's, and, and he knew, was ready to address the problems.

And he said things that led you to form that view?---Oh, well, he's not, it's not only him, but I, I used to get phone calls from other people saying, look

- - -

10 THE COMMISSIONER: Let's focus first on what Mr – did Mr Stavis say anything to you?---No, just my observation. That's my own observation of his, his activities, his actions. He helps - - -

As director?---As a director, he, which he, helpful.

MR PARARAJASINGHAM: And you certainly came to understand that prior to Mr Stavis commencing at Canterbury City Council – well, I'll ask another way. What did you understand as to the kind of reputation that Mr Stavis had as a planner prior to him starting at Canterbury City Council? ---Oh, look, I, I didn't take – all I knew was he had planning experience and he, he understood the area of Canterbury. But otherwise, besides that, he
20 was on trial. And he had to perform and, oh, this is a staffing matter. And, and he was on trial, and he had to perform.

But did, did - - -?--- So I can't really make any other judgment on that.

Do you have any understanding that Mr Stavis had a reputation elsewhere, including in private practice, for finding solutions for applicants?---Well, my observation, again, I, it's, it's my own observation that he was solution-driven.

30 MR MOSES: I object. I mean, what's the relevance of Mr Stavis's experience in private practice finding solutions for developers? How is that relevant to his role as a director of planning for council? Again, this is the conflating of what their roles were. I don't understand what the relevance of that question is. I object.

40 THE COMMISSIONER: Look, my view is Mr Hawatt has answered it along the lines of it's all based on his observation of what Mr Stavis did when he was a director at city planning. So this really isn't helping me at the moment, Mr Pararajasingham. It seems Mr Hawatt's, he's agreed with you about the solution-based philosophy of Mr Stavis, but his answers seem to suggest that it's really based, as probably one would expect, on what he observed Mr Stavis doing when he was employed as a director.

MR PARARAJASINGHAM: Commissioner, in the interest of moving things along, I will move on.

THE COMMISSIONER: Okay.

MR PARARAJASINGHAM: But just so it's abundantly clear to everyone, I apprehend a submission be made that Mr Stavis did things for certain reasons. These questions are directed towards an understanding as to why he may have done the things that he did. I'll just note that for the record. But I'll move on. Mr Hawatt, you've given evidence that you saw it as your role to help the public. Correct?---Yeah.

10 And that included assisting applicants and/or developers to achieve what they wanted?---Well, anyone who calls me for an enquiry, what the issues, I follow it up, yep.

And you've given evidence as to the various ways that you did assist applicants and/or developers?---Yep.

Including making representations to the director of city planning on behalf of applicants or developers?---Yes, yes.

Encouraging applicants or developers to have direct contact with the director of city planning?---Yes. Correct.

20 You made enquiries which had the effect of prioritising work for the director of city planning?---Oh, well, I just gave him whatever I had, and it's up to him to make the priorities. It's, but normally councillors get priority when, when they make an enquiry. That's, that's tradition.

Certainly. And you arranged meetings between developers and the director of city planning?---Yep, many times.

30 Just taking a step back and looking at that conduct, can you see how a potential consequence of that conduct may have been to have created pressure on Mr Stavis to achieve certain outcomes? Now, just before you answer, I'm not asking about your intention, I'm not asking about the consequences. I'm just asking you whether, standing back and with the passage of time that has passed, you are able to agree with what I am suggesting to you?---Well, no, not really. He's, look, he, he is a director, he has a job and if he can't handle pressure in regards to the enquiries, the number of enquiries, well he shouldn't be in the job as far as I'm concerned. So if he, if he feels pressure then he shouldn't be doing the job.

40 So implicit in that answer you just gave, is that, yes, you do concede the possibility that the things you did may have been a source of pressure? ---Well, no. I just, what I did is based on the normality, like I've done with all the other directors, and I don't believe any of the other directors would have felt the same thing. So if he wants to be different and feel the pressure, well, that's his, his problem, not, it's not something that I would have created because I would have done that with any other director prior and, and the future one. So it wouldn't have made any difference to me saying,

as a director, he needs to be able to cope with his job. That's, that's the way I would look at it.

Thank you. Mr Hawatt, you got to observe the way Mr Stavis went about his work, correct?---Yep.

And perhaps more so than anyone at council, you worked closely with him?---Yep.

- 10 And perhaps you've given this evidence already, but you had, and we've seen it, a number of discussions about a number of projects?---Yep.

Based on your observations, do you agree with this proposition that I'm going to put to you, that a filter in Mr Stavis's decision making was whether he was personally satisfied a recommendation could be supported on a merits basis?---Look, I, I can't, I can't judge his actions and what, how he thought. It's, it's not my position. All I can judge is based on his performance and the feedback I get. So I can't, and from, from my observation is, he was doing a good job. That was the only thing I could say.

I'm asking about something slightly different, but perhaps can we go to transcript 6719, please. And can I just take you to something you said at line 7 onwards. So the question was asked, "I'm not asking you to guess. I'm asking you to draw on your knowledge of your relationship with Spiro Stavis, which by this stage have been over a number of months, over numerous matters, over much contact between the two of you. You understood, didn't you, that Mr Stavis would invariably respond favourably if you asked him to, in a particular matter, favourably to interests of the applicant?" And your answer, "Favourably, Mr Stavis, if he doesn't like something, he has to, I mean, he can't just give you something favourably without doing his homework and, and ensuring that it meets the, the councils codes and he can't just make decisions up but he will help, he will give you priority and he will assist and that's, and that's the way he operates. I can't just say he's giving me favourable things. It's not that he came up his own decisions, he's got to have, you know, backup and proof and, and, and assessments and work can be done on this. So he gives me priority, like any other councillor, and I might have said to him, 'Look, can you have this done quickly, there's some personal issues?' I don't know, I just can't recall exactly." Can you just explain or clarify for us what you were getting at there?---Well, I mean, as, as a director he can't just say, "Yes, I'll approve this." It's got to, he's got to do all these checks and talk to his staff and assess, assess the applicant on its merit and come up with solutions to, or find out if there's any, what the issues are. I mean, that's, that's his job. He can't just go ahead and say, "Yes, I'll approve it."

So just coming back to my original question then, you would agree, wouldn't you, that Mr Stavis had to be personally satisfied that a particular

recommendation could be made or supported before he made it?---Correct, yes.

And we've heard and we've seen countless examples of Mr Stavis pushing back against development.---Correct.

Faker, Maroun, Demian. And you accept, don't you, Mr Hawatt, that it wasn't easy dealing with the likes of Demian, was it?---No.

10 Even for you at times. Correct?---That's why we backed Stavis on this one.

And you can be, if I can put this lightly, quite a forthright person?---I'm, I'm a very, if I see somebody become too pushy then I pull back (not transcribable)

And it is the case that from time to time Spiro pushed back, didn't he? ---Yeah, well, yes, if he felt there was something wrong, yeah.

20 Now, Mr Hawatt, we heard a telephone intercept a couple of days ago, it's Exhibit 300 which was from 30 December 2015, and it was a conversation between yourself and Fadwa Kebbe. Do you remember?---Yeah.

And at some point in that conversation you refer to, you say, "We taught him a lesson," being a reference to Mr Montague. You recall?---Yeah, yeah, yeah.

30 My question is this, and this is a deliberately general question to start with. Are you able to say in what ways was Mr Montague different after the hostilities in the way he dealt with you and council?---Well, he had to work with the councillors, it's not that he, he used to be too cocky before but he realised that it's a team effort, it's not a one-man show, it's a whole team, you've got a whole council, councillors, staff, directors, we've all got to work together, not sort of as one dictator. And I think he realised that he must work with the council in order to achieve, achieve things.

40 And am I right in understanding, and I appreciate this has been the subject of some dispute in the last day, but certainly from March 2015 onwards, the hostilities, the approach towards the hostilities by you and Mr Montague and others was very much water under the bridge?---Correct, we needed to move forward.

And thereafter you certainly tried to cultivate a good working relationship, correct?---Correct, yes.

THE COMMISSIONER: With Mr Montague?

MR PARARAJASINGHAM: With Mr Montague?---Yes, yes.

And at the end of the day he was the general manager, you were a councillor and you both needed to get things done.---Correct.

And is it a fair comment that in your approach to the question of development in Canterbury City Council you fell on the same page as Mr Montague?---Oh, we had a lot of disagreements, a lot of disagreement, but sometimes he, he gave me advice that the way I'm thinking is incorrect and I, and I accept that. I always accept, if I make, if I make mistakes or have an option that's really it's not, not correct, people say it and I accept that and we just move on in order to, to find a way, find a way out.

10 And in the period 2015-16, what kind of contact were you having with Mr Montague?---15-16, it's normal like any other general manager, we, we had a lot of contacts, we had a good working relationship, we were supporting each other in regards if he had any issues he spoke to me about it and, and vice versa. It was a good working relationship, yeah.

So you were in regular contact with Mr Montague in that period?---Yeah, yeah, we had a good working relationship.

20 And the interactions you were having with Mr Stavis, conversations you were having with him, you weren't keeping those a secret from Mr Montague, were you?---No, no. If I had issues with Mr Stavis I would raise it with Mr Montague.

Certainly in your mind you weren't doing anything wrong and so it's unlikely you would have kept the nature of the communications that you were having with Mr Stavis as a secret?---Sorry, I missed that?

30 THE COMMISSIONER: I think Mr Pararajasingham is referring you to where, for example, you might have text Stavis about a development application.---Oh, okay.

Or you might have sent him an email, whether those communications with Mr Stavis, you were trying to keep them secret from Mr Montague.

40 MR PARARAJASINGHAM: That's the question I'm asking.---I, I've never, I've never said – look, there might have been some occasions, I don't know, but I've never – because Mr Montague has strict rules that, with his directors, that any communications with councillors, he, he wants to know about it. So he's, he's copied in. So, it's, this is a staffing matter that I have no control over.

THE COMMISSIONER: So you didn't aim to keep them secret?---No, no.

MR PARARAJASINGHAM: So, to your knowledge, was Mr Montague aware of the types of communications you were having with Stavis?---Oh, look, I, I don't know. I, I can't say yes and I can't say no. Oh, it's, it, if, if

there was an issue that I had with, with – I mean, if Mr Stavis had an issue with me, he probably would have complained to the GM about it. I mean, there was just a, an understanding that, a working understanding in council, and the GM was the, the head and any complaints would have went through him, either from the, from, from the staff against the councillors to, to the GM, or against certain applicants or developers to the GM, and vice versa. So the GM played a, a central role to try and, and resolve the bigger, bigger issues.

- 10 And is this is a kind of a summary of your position, that certainly there was nothing in your mind that would have prevented you from informing Mr Montague - - -?---Oh, absolutely not.

- - - as to the various contacts and communications you were having with Stavis?---I had no issues at all (not transcribable) understood.

- And it is the case, isn't it, that in the 2015-16 period, Mr Montague said nothing to you that indicated he had any problem with the interactions that were going on between you and Stavis?---No, he was happy with Stavis. He
20 was very happy with it. He said his, his performance is much better than what he expected from him, from (not transcribable)

I'm asking something a little bit different. Mr Montague never said anything to you that indicated he had any problem with the interactions - - -?---Nah.

- - - that were going on between you and Stavis?---No, no.

- 30 No. And Mr Montague said nothing to you that you would construe as Mr Montague protecting Mr Stavis?---No, no.

Just finally, Mr Hawatt, you gave some evidence about a meeting at a café that occurred the day before the panel interviews. Do you recall giving that evidence?---Before, yeah.

THE COMMISSIONER: At Marrickville?

MR PARARAJASINGHAM: At Marrickville?---Yes, yeah.

- 40 This is on 16 November, at - - -?---I mean, look, the, I have to, I'll be, this is a, like a very vague – I, I, I don't even recall this one, it's just through the reading the transcripts and sort of, like a bit of memory on it, yeah, but I can try to answer whatever I can.

But you do remember giving some evidence about this topic?---Yes, I did, yeah, based on reading the transcripts.

I just want to ask you about that. It's your position that someone arranged for a meeting to take place at a café in Marrickville between Mr Stavis and yourself and Mr Azzi, correct?---Yes.

Are you able to, with a few days that have now passed, give us any more detail as to who that person - - -?---I, I don't recall. Honest, I don't recall.

10 And you also gave some evidence that you and Mr Azzi were also going to be in Marrickville to look at a development.---Correct. There were, this is when we started thinking about laneways. There was a laneway, and there was a development there. Somebody gave us an address to have a look at it.

I understand.---And that's why we met.

Which came first, the - - -?---I think the appointment (not transcribable) we were going to Marrickville, that's why we probably met because we, we were going to be in Marrickville.

20 So you must have told this other person that - - -?---Yeah, we're going to be in Marrickville, yeah.

And to your understanding, this other person has then arranged - - -?---This is from memory, by the way, I just, yeah.

Sorry?---This is from memory (not transcribable)

Oh, I understand. This other person has arranged for Mr Stavis to meet you in Marrickville.---Yeah. Across, it was across, I think across the road, there's a coffee shop, yeah.

30 And do you recall what time of day this - - -?---No, I don't, I don't recall.

Was the sun still up?---I don't recall the day.

And I think your evidence was that on your arrival at the café, you had with you a, you had something with you.---Yeah, I had a folder, yeah.

So you say it was a folder?---Yeah.

40 Can you just describe this folder for me?---Just a folder. Because the next day I recall there was, we had an interview for the appointment of a director and I had the folder in the car for the, for that, for that meeting we had.

When you say folder, what are you picturing? Give me a physical description of what you're picturing.---The folder for the panel interview, for the director's interview.

Something like this?---I don't, I don't recall. No.

Was it ringbound?

MR DREWETT: That should be described.

THE COMMISSIONER: Sorry, good point, Mr Drewett. You just held up
a - - -

10 MR PARARAJASINGHAM: I'm holding up a - - -

MALE SPEAKER: Lever-arch file.

THE COMMISSIONER: Plastic folder.

THE WITNESS: I don't think it would be that bulky. I don't think it's that
bulky. I don't recall that.

MR MOSES: (not transcribable)

20 THE WITNESS: I think it's too bulky, that one.

MR PARARAJASINGHAM: You say it's too bulky?---Yeah, I don't think
it's that one. It's too bulky.

THE COMMISSIONER: Mr Hawatt, I thought you gave evidence on this
and that - - -?---I had a folder, yeah, but I can't remember it being bulky.

- - - it was spirally bound.---Yeah, yeah, correct, but not like that, I don't
think.

30

MR PARARAJASINGHAM: Yes, that's - - -?---Yeah, I think that's the
one, spirally bound, yes.

So you call a spiral-bound booklet a folder, do you?---Yeah.

Now, your evidence was that you took this – we'll call it a folder – you took
this folder into the café?---I must have, I must have had it with me. Maybe
to, maybe to, to reference, reference him or to see what, something about his
background. I just don't recall, but I had it with me, yeah.

40

What do you mean, “to reference him”?---Well, if somebody says, like, I'm,
my name is such-and-such, and I've got this thing and there's a thing in
there that I would, to make sure that what he's telling us is correct or not
based on his background or whatever.

Sorry, when you say “thing”, what are you talking about?---His experience.
His background. It's, I just, if, if I needed it. I, I took it with me. From
memory, I didn't want to leave it in the car.

So are you telling us that the reason you took it with you was as a reference tool?---It would have been as a reference or just I didn't want to leave it in the car, so there was - - -

So are you saying that there was also some kind of security concern, was there?---Well, yeah, I just was, where we parked it was (not transcribable) the back of a laneway there (not transcribable)

- 10 And so you contemplated the possibility that someone in Marrickville was going to smash your window and take a folder?---No, no. Nothing to do with that. It's just general safety. I, I used to be a systems security analyst and I have a lot of understanding of safety, yeah. I used to write things about safety.

I might ask you about that. But just coming back to my question. But, I mean, that was the concern, wasn't it, that someone would steal the folder? ---It could have, it could be, because one of the things, it's better to have it with you, yeah. As I said, it could be take it out, keep it with you for safety, 20 and at the same time the reference.

You keep saying safety. You mean security, don't you?---Security, security.

What kind of car were you driving around this time?---I don't (not transcribable). I can't remember if it was my car or, or Mr Azzi's car. I don't recall. That's, that's a very, as I said, this is a memory that's coming back based on what I read, but it's not, it's not a thing that I recall having. But it's very vague.

- 30 I do need to just briefly get into this, but what was it about this folder that you thought would have made it attractive to any would-be robbers? ---Nothing to do with the folder. It's to do with somebody breaking into the car.

THE COMMISSIONER: Couldn't you put it in the boot?---Oh, look, it's just something that was next to me and I picked it up with me. It's, I mean, I always take things, carry things with me, a lot of meetings.

- 40 MR PARARAJASINGHAM: But just so I understand your position, you say you took it for two reasons at least. One was this safety issue that you've referred to and the other was as a potential reference tool.---Yes.

You entered the café. Is Mr Stavis already there on your account?---He might have been. I just can't recall. I can't recall if he was there, we were there first, he was there first, I don't recall.

When you went into the café, what did you do? Did you sit down?---We were sat on the table.

And where was this table?---I don't recall. From what I read, they're saying it's outside.

Well, do you have any reason to doubt that you sat outside at the table?---I don't recall. Whether it's inside or outside, I don't, I don't remember where we sat.

10

But you have no basis to doubt that you sat outside?---I, I, could be, yeah. I mean, I have no, no doubts about outside or inside.

But at some point Mr Stavis materialises, he appears?---Materialises? What, he appeared like a ghost?

Well, you tell me, Mr Hawatt. This is your account.---No, but you're saying materialised, how did he materialise?

20

Well, you tell me. How did Mr Stavis come to be at that table?---He must have been waiting or something. Like, he must have been waiting for us.

THE COMMISSIONER: Do you recall that or are you - - -?---No, I don't recall. I, I don't know how we, we sat with him. I don't know, I can't recall how he introduced himself. It's like a vague, it was like a, a 10 minute, 15 minutes meeting. I just don't know.

MR PARARAJASINGHAM: Well, that was my next question. So from start to finish, you estimate this took about 15 minutes?---Yeah, yeah, yeah.

30

And at some point during the meeting, you and Mr Azzi excuse yourselves?---Correct.

40

Do you recall how far into this 15 minute meeting that occurred?---I, I don't recall. I don't, all I know is Pierre and I said, look, let's, let's have a quick chat because, because we saw, I have to say, Mr Stavis very eager and, and nervous and we just walked to the, like, walked to, towards the corner, like, when you talk with, when you see people talking and you just, you, stand there, you walk and talk and that's what happened. Like, and then we came back and decided that it's something that we should not be sitting with him, we should go.

So by that account, it's likely that this stepping away from the table happened toward the end of the 15-minute meeting?---Oh, I don't, I don't recall whether - - -

No, I understand you don't recall but given the chronology you've just given us, it's likely, isn't it, that this stepping away from the table happened

towards the end because you say - - -?---I, I don't, I don't recall, the end, beginning, it's - - -

THE COMMISSIONER: Hold on. Mr Hawatt, your counsel is on his feet. Stop speaking.---Sorry, Mr Counsel.

MR DREWETT: I forgot what the objection was. I think he's answered it anyway.

10 THE COMMISSIONER: Okay.

MR PARARAJASINGHAM: Did he? I didn't – what did you say, Mr Hawatt?---I said I don't recall whether it was before or after, I just don't.

I understand that but what I'm, and you may recall Counsel Assisting did this a couple of times, I'm exploring what would have likely been the case given what you've already told us.---I don't recall it, like - - -

MR DREWETT: I object.

20 THE WITNESS: Likely or unlikely. I just don't recall it.

MR DREWETT: Mr Hawatt, please.

THE WITNESS: Sorry, I'll stop.

MR DREWETT: I object to that. It has no utility, in my respectful submission. He can't recall it. It may be a matter for submissions as to whether or not it's likely to be at the middle, the early part or the end of the meeting. The witness can't recall it.

30 THE COMMISSIONER: It's just, Mr Drewett, I have some sympathy with Mr Pararajasingham because a chronology was set out and according to Mr Hawatt they walked away and then it's suddenly as if it's dawning on them that really we shouldn't be having this meeting with Mr Stavis and the impression that I gained was that at that point it was like we really shouldn't be speaking with Mr Stavis and we're going to end this meeting.

40 MR DREWETT: Commissioner, I think my learned friend's submission on the point, as I would foresee it, would be eminently sensible. I don't think I would put forward an alternate view in relation to that, but it is a submission and my witness can't recall it, but I certainly wouldn't, as I stand here now, disagree with my friend's ultimate submission and probably what you are saying as well, Commissioner. It's more likely to have been at the end, I think.

MR PARARAJASINGHAM: Well, I will take that as a concession from my learned friend as to - - -

MR DREWETT: It's not a concession, it's just, it seems to be a reasonable submission based on the evidence but it's certainly not anything more than my client can't recall that.

THE COMMISSIONER: And you don't anticipate that when you examine Mr Hawatt you'll be saying that they walked away at the beginning of the meeting or the middle of the meeting or anything like that?

10 MR DREWETT: I can undertake, Commissioner, that I won't be asking that question.

MR PARARAJASINGHAM: That will do me, Commissioner. Mr Hawatt, you understand that there is evidence before the Commission that on 16 November, Mr Stavis took some photographs of a document headed Suggested Interview Questions?---Yep.

And these were taken, it's accepted, at the Victoria Yeeros Café in Marrickville?---Ah hmm.

20 Now, just before I come to that, when you and Mr Azzi stepped away from the table to have your conversation, how far did you go from the table? ---I don't know, just like we walked to the corner, it's not far, there was a, we were talking, walking, went to the corner, just a - - -

So a few metres?---No, not a few metres, no, it's, could be 50 metres or more, I don't recall.

How many, sorry?---Could be 50 metres, I don't, I don't remember.
30 50 metres?---I don't know. I don't know how, how far is it from, there's a corner when you come round, could be 20 metres, I just can't recall exactly.

And where you were I take it was you couldn't see Mr Stavis where you and Mr Azzi were?---Well, no, we were walking, walking towards the corner.

Yes. But are you able to say whether from, from where you had this conversation at the corner you were able to see Mr Stavis?---We had our back to him because we were walking away from him.
40 And how long was it between leaving the table and coming back, can you give me an approximate time?---Could be five, seven minutes, I don't know, something like that.

So it was a matter of minutes.---Yeah, like five, maybe seven minutes.

Now, in your evidence you admitted the possibility that when you stepped out for your chat you may have left this folder on the table.---Yeah, correct. I don't recall but that most likely, yeah.

- So accepting that Mr Stavis did take photographs of this document, and accepting that you had the document, had the folder with you with the exception of perhaps this few minutes, five-minute window, on your account the photographing must have occurred when you were away from the table?---Look, I don't recall, I was surprised that he took, there was
- 10 photos, I, I was quite surprised, I wasn't even, I didn't realise he, he took the photos or had the photos, I don't know how he got them.

I understand all that, but plainly on your account that's when Mr Stavis must have taken the photographs?---Well, if it happened that's the time that there was a gap.

Because at all other times you had the folder with you on your account, didn't you?---Correct. That's, that's the gap.

- 20 Right. And you tell us that you didn't show him the document, did you? ---No. He, he knew the document because when we first originally sat, most likely he would have asked what's going on, you know, and - - -

Sorry? No, you go, Commissioner.

THE COMMISSIONER: Mr Hawatt, you now have a recollection that when you sat - - -?---No, no, I'm just guessing now, just guessing now.

- 30 No, I don't want guessing.---I, I don't recall that meeting at all. I'm just guessing why the, the folder's, he took it. I don't recall what, what happened with it.

But you wouldn't have said anything, oh, sorry, Mr Pararajasingham, you continue.

- MR PARARAJASINGHAM: Mr Hawatt, just repeat for me what you said about a - - -?---Look, I'm just talking generally now. If I had the folder with me and I'm talking about and I might have asked him some questions about his, his experience and background and I might have opened it just to see if it's, if it matches and he might have said, look, what's, what's that. Oh, I'd have said, oh, this is for, for the meeting for tomorrow. I just, I'm just guessing.
- 40

Sorry, sorry?---And he would have known there was something in there but that's all I can say.

Sorry, are you telling us now that at the table with Mr Stavis you produced the document with the heading Suggested Interview Questions?---No, I

would have looked at it, I would have referred to it if, if there was a question that was asked or he might have asked something. I, I don't recall that meeting, as I said.

What do you mean you would have referred to it?---To refer to it. To me it's about him, if, if he asks something about his background or his experience I would have, I would have referred to it to see, to see, to confirm what he's saying is correct.

- 10 Sorry, are you saying that you have a memory of pulling out this document - - -?---I don't have that memory, I'm just talking common sense, logic, what could have happened.

You're just, you're just making this up on the run, aren't you?---I'm just talking what could have happened, that's simple as that, because I don't remember that meeting, as I keep saying, I don't remember that meeting and how he, the photos were taken. All I remember is, based on what I read, there was a discussion and we walked away and, and that was it. After that I don't know what happened. I'm surprised he had the photos.

- 20 Well, could it also have happened that you showed him the documents, Suggested Interview Questions?---I, I, I would not have given him the photos to take because I've never had the intent of asking any of those questions and I think it was quite obvious during that thing, I've never asked those questions so why would I give him something I had no intent of using?

THE COMMISSIONER: Yes, but there's other people on the selection panel.---I don't think anyone (not transcribable)

- 30 Mr Montague might have wanted to ask those questions. Mayor Robson might have wanted to ask some of those questions.---Commissioner, I don't recall giving him anything like that.

- But potentially that could have occurred.---I don't remember what, what the discussion with him was. It's like, when I saw the photos, like, how the hell did he get those photos? I don't remember this. All I remember, what I read regarding to the, to the transcript, and just sometimes just a little bit of memory of, like, it's like a shadow of walking away from it. That's, basically that's what I remember.

MR PARARAJASINGHAM: And so coming back to my original question, with the exception of these few minutes, five minutes that you were away from the table, you had the folder with you, correct?---Again, you're asking me something, I keep repeating, I don't recall even that meeting with him. That's how bad it is.

You see, Mr Hawatt, Mr Stavis gave – as you appreciate – evidence in this inquiry, and this was put to him by your representative at transcript 4725, line 25. “And I’m going to suggest to you that you, at a time when Mr Hawatt and Mr Azzi were absent from the coffee table, when they’d gone outside – and you say that they didn’t go outside, I understand that – but I’m going to suggest to you nonetheless that you then took it upon yourself to take some photographs of some of the documents that you had seen Mr Hawatt carrying with him.” And then Mr Stavis replied, “That’s absolutely not true.” Now, Mr Hawatt, we assume that was put on instructions, so is it
10 the case that – do you accept that on your account Mr Stavis must have taken the photo when you and Mr Azzi were away from the table?---Again, I don’t recall that meeting, how it was taken. All I can say is there was a gap when we walked away and came back, decided to leave. That’s all I can, I can, that’s all I can give.

Well, how is it that you were able to so definitively give those instructions to your representative?

20 MR DREWETT: I object to that. I object to that.
THE WITNESS: It’s up to him to make those decisions.

MR DREWETT: In my respectful submission, this question is asking my client to divulge confidential information between client and lawyer. Such an answer would require a disclosure and a divulgence of legally privileged information, I would submit. His answer is what it is. It’s a matter for submissions, perhaps, for my friend, but that’s what it is, Commissioner.

30 MR PARARAJASINGHAM: Commissioner, with respect, privilege in respect to that has been waived by the putting of the question to my client, and it is a legitimate line of cross-examination that this witness – and we assume things were put on instructions – was able to give those instructions and that was put to my client, and yet here, curiously, he seems unwilling to accede to that scenario. It’s a matter bearing on his credit.

40 MR BUCHANAN: Commissioner, if I could just be heard in support of Mr Drewett. In my respectful submission, the question is an attempt to have a communication between Mr Hawatt and his lawyer explored, if not divulged, and there is always an alternative to counsel putting a matter on instructions, and that alternative is one that in the circumstances of this case – certainly at the stage we’re at – can’t be excluded. It can’t be explored or excluded by asking the witness to disclose his instructions to his lawyer.

THE COMMISSIONER: Mr Drewett?

MR DREWETT: I wouldn’t add anything.

THE COMMISSIONER: So, Mr Pararajasingham, sorry, can I get that up again? Thanks. Can I just confirm, your question is whether the question that Mr Drewett put to Mr Stavis at transcript 4725, line 25 was put on instructions?

MR PARARAJASINGHAM: Yes. Did he tell – well, yes, yes.

10 THE COMMISSIONER: My view is that does – sorry, I think your point that the fact that it was put must mean that it was on instructions and hence you've had a waiver of privilege, I agree with Mr Buchanan, there may be – I don't think that is necessarily the case, and the way that you've posed the question would seem to breach the privilege between Mr Drewett and Mr Hawatt. Can you explore it in another way? What I was going to suggest, I thought you might be coming to the end. What we might do is have the morning tea break.

MR PARARAJASINGHAM: Yes.

20 THE COMMISSIONER: Can I, just to work out in my mind how we're going to continue today, Mr Pullinger, your estimate?

MR PULLINGER: Probably between 15 and 25 minutes.

THE COMMISSIONER: All right. And, Mr Drewett, presently do you anticipate some time that you'll require with Mr Hawatt?

30 MR DREWETT: I think when Mr Pullinger is finished I'd like a few minutes just to have a chat to my instructing solicitor and I'd come back to you with a time as to how long we would need. It may not be as long as what we might think, Commissioner, based on some of the questions (not transcribable)

THE COMMISSIONER: All right, then. Look, we'll adjourn for morning tea and resume at about five past 12.00.

SHORT ADJOURNMENT

[11.41am]

40 MR PARARAJASINGHAM: Commissioner, I'm not sure whether, Commissioner, you ruled on that objection, but can I just note just for the record that I maintain that where a witness is being cross-examined by the representative of a party as to a particular version of events and then the party gives a different version of events, the party, it's permissible for the party to be cross-examined on the difference, and that in those circumstances the putting of the version to the witness amounts to a waiver of privilege, and whilst I appreciate that the rules of evidence don't apply in here, there is authority to that effect, including Oldfield v The Queen, the

Court of Criminal Appeal decision 2006 163 A Crim R 242. That's at paragraphs 40 to 45.

THE COMMISSIONER: Excuse me for a minute. Everything's all right? Sorry, Mr Pararajasingham. No, look, I'm not going to allow the question but so if you can proceed.

10 MR PARARAJASINGHAM: Mr Hawatt, I'll just cut to the chase here. This account that you've given as to what occurred at this café, it's a lie, isn't it?---That's incorrect.

You're just not prepared to tell the Commission the truth about this meeting, are you?---I just told you, I don't even remember that meeting.

20 Can I just give you an opportunity, on your account this is the case, isn't it, that an applicant is meeting two councillors who are going to sit on a panel the following day, and on your account when the two councillors leave the desk for whatever reason, the applicant rifles through a folder, finds a document headed Suggested Interview Questions, produces his phone, takes photos of that document, all the while not knowing how far off the two councillors are, and then puts everything back in order in time for the councillors returning. I mean you see how that's, that's a nonsense, isn't it? ---Anything could happen with desperation I guess.

See, the case is, this was a mini-interview, wasn't it?---I don't recall the meeting.

30 And it's the case that you encouraged Mr Stavis – I'll withdraw that. You permitted Mr Stavis to take photos of that document.---I don't, I do not, I would not have given him those opportunities, no, I don't recall it. I'm surprised he's got the photos.

Commissioner, those are my questions.

THE COMMISSIONER: Right. Thank you, Mr Pararajasingham. There is, as you can see, there's a slight problem with the screen. Apparently to fix it our IT person has to stand where I am. Are people happy to proceed with only seeing the witness and myself up there and not the rest of the room?

40 MR MOSES: Yes.

THE COMMISSIONER: Good. Mr Pullinger.

MR PULLINGER: Thank you, Commissioner. Mr Hawatt, I represent Pierre Azzi. You were first elected to Canterbury Council in 1995? ---Correct.

And at that time and through all of the years that you were a member of Canterbury Council, the majority of elected councillors were Labor. Is that correct?---Correct.

And you described being in a position like a zombie when for many years the practice of the Labor councillors was to caucus, caucus decisions were binding, and there was no opportunity to debate matters that had been the subject of discussion at a Labor caucus of councillors.---Correct.

10

That position changed at some time in 2013. Is that correct?---Yeah, when the, yeah, I think, yeah, when the, I think the state government made some changes to that.

There may have been a continuation of the practice of councillors meeting as if in caucus but they were not allowed to be bound by caucus decisions. Is that the position as you understood it?---On planning, yes, correct, yes.

20
Now, Mr Azzi first came to council after the elections in September of 2012?---From memory, yeah.

Did you know him before he was elected?---Oh, look, he was, once he called me as a resident, he had some issues with the neighbour, that's the only time I met him, after that I never had any contacts with him.

And so far as you knew, when he arrived after the elections in 2012 he had no previous experience as an elected member of any council?---No.

30
At the time when first came the caucus position or the position of the Labor councillors caucusing and being bound by caucus decisions still prevailed. Is that correct?---I think so, yeah.

There came a time when the mayor no longer enjoyed the support of his Labor colleagues in council. Do you recall that happening?---Yeah, with the mayor, yes.

And when that happened was the situation that the council became to an extent dysfunctional?---Well, yes, in a sense, in a sense.

40 THE COMMISSIONER: Sorry, and when did this occur?---When there was a, when the mayor changed and I think - - -

But I'd like a year.---Probably 2014 around.

MR PULLINGER: It was sometime in 2013, wasn't it?---'13, yeah, could be '13, yeah.

And the situation where you enjoyed an opportunity to cooperate and work with other councillors, including Mr Azzi, how did that come about?---Oh, look, it's, because of the caucusing stopped and it became like a team effort instead of Labor, Liberal or caucusing, it became a team and, and we started seeing eye to eye on, on a lot of things and there was no restrictions in regards to that. So - - -

And initially at least, the mayor was part of that team, wasn't he?
---Originally, yes.

10

And then it came to pass that you and the mayor had a falling out, couldn't see eye to eye, is that correct?---Oh, plus other Labor councillors had issues with him as well.

And so the situation once again became, to an extent, dysfunctional, is that correct?---Yep.

And that was resolved with the intervention of the general manager, wasn't it?---Yep.

20

And he prevailed upon you to cooperate, as it were, with Mr Azzi and with other Labor councillors so that the business of council could continue?
---Correct, (not transcribable)

THE COMMISSIONER: So you're saying Mr Montague came and spoke to you, are you?---Yeah. He did, he had concerns with the mayor because nobody was working with him and he wanted to, council to function and he did, he did mention his, he was concerned with the mayor that he wasn't getting through - - -

30

And when was that? When did Mr Montague raise that?---Oh, during, during that period, 2013-14, during when the fallout with the mayor, when there was a, an issue between the councillors and the mayor, like, the six councillors and some of the Labor councillors, including Councillor Adler, there was a, a lot of animosity going on between, look, within the Labor councillors more than anything else.

40

MR PULLINGER: That was in 2013, wasn't it?---Probably around that period. Could have been just after. I just, I, I'm not a hundred per cent exact on that, on the time.

And you were the senior statesman, so to speak, on the council with your years of experience?---Myself and Councillor Adler, yeah.

And you adopted a role as mentor towards Mr Azzi, the new councillor?
---Yeah, plus others, yeah.

Now, I'll move on. I'm just going to talk about the meeting at the coffee shop that has recently been the subject of some examination by Mr Pararajasingham and perhaps if I can just remind you of some evidence that you gave in this Commission on 10 April, page 6436, and I'll just read part of what you had to say when giving a description in relation to that meeting. "We saw him in front of the coffee shop, I think it was, and after we had a look at the development and we walked across the road and had a quick chat." And then a little later, still on that page, "We walked, Pierre and I went for a private walk and just said, look, you know, this is something that we should not be talking to him about." Now, do you recall giving that evidence?---Yes.

10 Now, if I can just suggest to you that what occurred, was when you were seated at the table and Mr Stavis was there, Mr Azzi got your attention and said words to the effect of, "Can we just walk down here. There's something I want to say to you"?---He could have, yes.

20 And he told that he felt uncomfortable about being there in the presence of Mr Stavis, who was an applicant for the job?---Yes.

And it was after he made known his discomfort that you decided that it was appropriate to cut the meeting short?---Correct, from memory, yes.

Thank you.---It was then.

Those are my questions, thank you.

30 THE COMMISSIONER: Oh, thank you, Mr Pullinger. Nobody else in the back row? Mr Drewett, you foreshadowed you just would like a short break to - - -

MR DREWETT: I don't need that now, Commissioner.

THE COMMISSIONER: Oh, okay.

MR DREWETT: I have instructions. I don't need any time to further consult. We've got no questions for Mr Hawatt.

40 THE COMMISSIONER: Oh, okay, then. Now, Mr Buchanan.

MR BUCHANAN: You told Mr Pullinger that he was correct in describing to you that what occurred had been that you had been at the table in this café at Marrickville with Pierre Azzi and that Pierre Azzi had said something about walking down here, and that presumably during the walk, he, Pierre Azzi, told you he felt uncomfortable. You said, "Yes." Mr Pullinger put it to you that after he had, after he, Pierre Azzi, had made known to you his discomfort, you decided to cut the meeting short, and you said that was

correct.---Well, look, it's, look, from memory of what I've been reading, it's, it, it's, it's what sort of I have some slight memory on that. It's, yes, it would be, yes.

Well, that's what I want to ask you about, Mr Hawatt. The difficulty that the Commissioner faces is that you have said on numerous occasions that you have literally no memory of the meeting.---I didn't. Correct.

10 And the question is, which bit of evidence is correct? That you have no memory of the meeting, or that you have a memory of the meeting in the respects in which you've given evidence about what occurred?---I just, I read what, what the transcript and even the memory of, of going to the lane and having the thing, I couldn't remember that until I, I read, I, I, I read the, the transcript and it sort of highlighted, yes, there was a, there was a, you know, a discussion or meeting regarding looking at some developments on laneways. And that's, even that I forgot about it, except for reading it. And there was some vague, you know, again from just memory, that there was a thing about that we, we decided to, to move, move on and, and not to meet with the (not transcribable)

20 THE COMMISSIONER: So when you say you're reading the transcript, you're reading Mr Azzi's evidence, are you?---I read (not transcribable) and sort of remembered a few things from him, from what he said about the, I completely even forgot about meeting at the laneway.

30 Have you ever read Mr Stavis's account of the meeting?---I read his as well. But again, I was surprised when, when he said there was photos (not transcribable) dreamt of it. Where did, how did he get them? Like, I just – so it's, it's, it's really, it's a, it's a meeting that, that is very, very vague for me. And, and I had to read some of the, what others are saying in order to, to remember a few things from it.

MR BUCHANAN: What surprised you about what you read in Mr Stavis's account in the transcript of the evidence in the enquiry?---Oh, oh, just the photo, I was quite shocked. I said, where, how did he get the photos? Like, it's sort of, was a shock to me to know that he had copies of, of those questions.

40 But you have no memory of the meeting. So how - - -?---Correct.
- - - do you know that that, that Mr Stavis's account is not correct?---How did he get the photos? That's, that's the question I, I, I have. I don't, I don't recall how - - -

Well, there's nothing in the account you've given to suggest that Mr Stavis is incorrect because you have no memory of the meeting.---Correct, but I have memory of walking away with, with Mr Azzi in regards to, to saying, yeah, let's, let's go, and, and, and I agree with him on that. We, we have,

from what he said, and even regarding the, the laneway, yes, I, I remember from that. But I don't remember anything else.

But earlier when Mr Pullinger was asking you – I'm sorry, when Mr Pararajasingham was asking you questions, you said, "based on what I read, we walked away."---Based on the memory of what Pierre Azzi was saying, that we walked away, from the transcript I read.

10 So are you saying I understand from what Pierre Azzi says that that is what occurred, even though I myself have no memory of what occurred?---No, that did happen, that did happen in regards to when he said that we did walk and I said yes, he's correct, and then also the reason we were at Marrickville was because of the laneway (not transcribable) why we were in Marrickville, because of the, looking at that development regarding the laneway, that's something also I forgot and I, yes, I acknowledged that was the case, but to meet up with even Stavis was a, it's like a vague, a vague memory in that regard.

20 So are you saying that you now do have a memory of part of the meeting? ---Part of the memory, yes, it's coming back where we did walk away and that we did go to - - -

Walk away from what?---From the, the meeting we had with Mr Stavis.

What did you physically walk away from?---Just the meeting to talk privately.

Well, where was the meeting taking place?---Well, it's in Marrickville.

30 Sorry?---At the coffee shop.

Yes. Where in the coffee shop, in relation to the coffee shop?---Where we walked?

No. Where were you when you were having this meeting?---We were in the coffee shop.

40 Yes. Where in the coffee shop?---I don't remember where in the coffee shop, where we, I mean they're talking about inside, outside, I don't remember where we met, inside or outside.

So do you have a memory now of Mr Azzi talking to you and as a result that you and he walked away?---From what I read, that's, that's correct.

Well, when you say, "from what I read," to the ordinary person that means I understand that's what occurred because I see that somebody else has said that.---No, no, no. It, what Mr Azzi was saying, it, it, it brought back some memory in that regard, yes, and he's right.

I see. And in which direction did you walk from the café?---I think towards the corner, the other corner.

Which corner?---The Marrickville Road, there was a corner where Marrickville Road is from the, from the coffee shop.

And you can remember the conversation with Pierre Azzi during the walk, can you?---Well, I mean just saying we should be there, that's - - -

10

No, no, please. You can remember the conversation with Pierre Azzi - - -? ---I can remember the - - -

- - - whilst you walked, can you?---The general, the general conversation, based on, on memory that sort of came back in regards to the walking, yes.

And I think you indicated that this occurred, when Mr Pararajasingham was asking you questions about it, obviously towards the end of the meeting? ---Could be, I just don't recall that part of it.

20

The alternative, if that isn't the case, is that you and Mr Azzi came back to the table that you were at with Mr Stavis and continued the meeting. That's the only option, isn't it?---I don't, I don't recall. All I recall is that it became a quick discussion and we left after that, so could have been towards the end, could have been towards the end, I don't know.

30

And when you're saying it became a quick discussion and you recall that, do you?---Well, I don't recall it, but we left because the timing, I'm looking at the timing of, of the meeting, the meeting itself wasn't that long and then we had that opportunity to, to walk away, so whatever the difference is, is the timing, so it would be much, much time to do, to discuss with him much.

And I think you indicated that the meeting took between 10 and 15 minutes? ---Could be, yeah.

So what was it that occurred in those 10 or 15 minutes before you and Mr Azzi walked away?---I don't remember whether we had coffee or not, I don't even recall if we sat down and had coffee, I don't remember that.

40

Was there any conversation or did you just stare at each other blankly? ---No, no, just introduction, would have been introducing. I mean if somebody's there and you've never met them before, it's introduction.

That's over and done with in about 10 or 15 seconds, I think you'd agree? ---Oh, look, depends. Would have been, could have been longer, I don't know, I just can't recall.

Well, what happened after you had worked out that this man was Mr Stavis and after he had had an opportunity of working out that you were Councillor Hawatt and that the other gentleman was Councillor Azzi, what happened next?---I don't know, I don't know, I just can't recall. We might have just, we might have assessed his, his position, I don't recall, and, and then decided to move on.

- Do you accept that it is inevitable that the three of you discussed Mr Stavis's candidacy for the position for which you and Mr Azzi would
- 10 interview him the next day?---I think he would have just introduced himself, I don't think he would have gone into details for that short period of time.

Well, we've got 10 or 15 minutes to occupy here. The question is what was talked about in that time?---Wouldn't be much.

Why wouldn't it be much?---It's just an introduction. That's, that's all the, it was a meeting to with introduction, that's, that's why we were there, presumably just to, just to meet him, to say hello.

- 20 And what was the advantage of having an introduction or a saying hello to Mr Stavis?---Someone asks, because there was, we were in Marrickville, someone asked us to meet up with him. I, I just don't recall who it was.

Well, there's really only two possibilities, aren't there? If it hadn't been arranged by you, then it must have been arranged by Bechara Khouri or George Vasil, mustn't it?---I don't, I don't recall who organised it. I don't recall it.

- 30 Well, can you suggest to us anyone other than either of those two gentlemen to both of them, who could have, could have organised that meeting?---I can't, I can't recall.

You can't think of anyone else either, can you?---I, I can't recall who else knew him at the time, I don't know.

- No. But you knew that Bechara Khouri knew him, didn't you?---Well, during that period, I, from, from memory, I mean, during that period there was like, I don't know how well anybody knew anyone because I never even met him, it was the first time I met Mr Stavis, that's the case, but besides that I don't know how Mr Khouri or, or Mr Vasil would have, would have known him that much. I just, I don't understand that. It doesn't make sense to me.
- 40

Well, why doesn't it make sense to you?---Because the guy is new. He's, I don't know how they would know him that well. To me, at that time, somebody said, look, this guy is in area, you know, say hello to him. I don't recall who organised it and who knew him and who knew us at the time. I mean, you mentioned two names, it could be others, I don't, I don't recall.

Who else could it possibly be?---I don't, I don't recall who it is, I don't remember.

You understand, don't you, that the evidence before the Commission is that both Mr Vasil and Mr Khouri knew Mr Stavis and had had a degree of contact with him in the time before 16 November, 2014?---But I can't point to any specific person. I don't, I don't remember who arranged the meeting.

- 10 But you accept then, it could have been one or the other or both of them?---I don't recall. I'm not going to say this or that, I mean, otherwise I'll be guessing and I'm not going to guess on that.

Do you accept that the 10 or 15 minutes after establishing who the three of you each were would have been occupied with discussing whether Mr Stavis would be a suitable person to be appointed as director of planning? ---Look, if we're going to discuss something with him, it would be based on his knowledge and understanding of the area. It's not, just general, and that's - - -

- 20 You don't mean the Marrickville area, you mean the Canterbury area, don't you?---The Canterbury area, yes, of course.

And so he would have been trying to persuade you of the merits of his candidacy, correct?---Well, he was, he would have been eager. I mean, if it was, to me, I see him as being quite eager to meet up, to meet us.

- 30 And you would have been, as far as you're concerned, interested in finding out whether this man would have been a suitable candidate for appointment at that stage, wouldn't you?---We just, at that stage, we just accepted a request, when we were in Marrickville to meet up with him and that was it.

No, no. What I'm trying to establish, you see, is what would have happened in that 10 or 15 minutes, given the circumstances?---It, it could have been just general discussion regarding Canterbury. That's, that's all I could say.

Well, it is inevitable, isn't it, that you were interested in finding out whether this man would be a suitable candidate for appointment?---I just, I, I - - -

- 40 MR DREWETT: Commissioner, I object to this line of questioning. It's re-examination. There was cross-examination by two of the parties in relation to this meeting at Marrickville but, as I recall that cross-examination, it related to the two alternate hypotheses, that is in relation to the folder, whether it was given to my client, sorry, given by my client to Mr Stavis or whether it was not. These questions, with the greatest respect, that are being asked now by Counsel Assisting are questions that were put to my client in his earlier examination of my client and put to him in great detail. I just don't recall there being any specific questions in relation to the issue of

conversations that took place in the 10 or 15 minutes that arose in any of the cross-examination.

MR BUCHANAN: Commissioner, the issue is the memory that the witness says he has or does not have. There has been conflicting evidence given to Mr Pararajasingham when he asked questions, and Mr Pullinger when he asked questions. I am simply trying to establish what this memory is or isn't, as the case may be.

10 THE COMMISSIONER: I'm going to allow the question.

MR BUCHANAN: When you and Mr Azzi came back from your walk, after the meeting had been going for a little while, what happened?---Oh, I don't recall the exact discussion, but I'm talking about generally, we would have just decided to, to leave.

Was anything said to Mr Stavis?---Just thank you, respectful, I mean, how would you – the, the, the way you approach people is the same way I approach with everyone.

20
Did you do anything?---And do what, like what?

Well, you'd left your documents on the table. Isn't that your evidence? ---That's, I, I said I don't recall the, the meeting itself. I don't recall where we sat. Whether we had coffee or not had coffee. Whether we sat inside or outside. Whether I left it, I took it with me, I don't recall this. But I might have left it. You know, I might have.

30 And what happened with Mr Stavis? Did he leave with you?---No, I think we just, oh, look, I, I don't remember, but we, we left, I'm not sure whether he, he, he must have left the same time, he would have done. I don't recall.

And where did he go?---I don't, I don't recall even being there. I mean, he, he would have had to go.

Can I take you to some other questions that Mr Pararajasingham asked you, please? You, I think, accept that you had, in the nature of a casual conversation or a discussion with Mr Stavis, conveyed to him words to the effect of, "I don't want you to go the same way as the previous director."

40 You remember - - -?---Yeah, I might have - - -
- - - giving those answers to Mr Pararajasingham?---Yeah, yeah.

And Mr Pararajasingham asked you, "Did you say this to him to assist him to understand his expectations of the job?", oh sorry, "to understand expectations of the job?"---I, I, I can't, I can't remember that question (not transcribable)

Well, can I ask you this, did you say to Mr Stavis words to the effect, "I don't want you to go the same way as the previous director," in order to assist him to understand expectations of the job?---No, I don't recall that. I don't recall that.

10 You didn't say that to him in order to assist him to understand your expectations of the job?---No, it's not my, my role to, to, to dictate -- this is a staffing matter. It's not my role to, to dictate or tell him what, what my expectations are. My, my personal expectations is I'll give him whatever I, I have enquiries for, and, and I, I'm hoping for the, a response from, from him. That's, it's just, it's not an expectation that's put, put to him. It's just said to him, and, and a response is given. That's, that's basically what it is.

Did you say it to him to assist him to understand the expectations of applicants, as to how he would perform his job?---No, that's, that's, there's expectations of applicants, is doesn't make sense. No, no, it's not, it's not correct.

20 You gave an illustration of a conversation with Mr Stavis in which you asked him what comes first, the objectives or the controls.---No, that was Mr (not transcribable), Mr - - -

I'm sorry?---Marcelo, it was Marcelo's question, I questioned Marcelo on that. It wasn't Mr Stavis.

I see. You never said that to Mr Stavis?---No, it was Marcelo, that question is Marcelo. That was based on that development in Earlwood when I asked him that question.

30 And so in saying that to him you were talking about the DCP, were you?
---To, to Marcelo?

Well, if that's your evidence?---Yeah, Marcelo.

That you didn't say it to Stavis but you said it to Marcelo.---Correct, because there was an issue in regarding to the controls and when I went out to the site I saw there was a, what the staff were doing was incorrect, they weren't using the objectives of the controls, they were just having a checklist and just ticking that.

40 You were directing him, weren't you, as to how he should perform his job as the director of planning?---Who to, Marcelo?

Yes.---No. I was telling him, I was asking him what comes first, because what I saw and what I was told by the applicant was correct and then when I relayed that to Marcelo, the question I asked him is what does come first, and he said, "No, the objectives." It's simple as that.

And it's with a view to persuading him to change the approach he was taking to that particular issue, wasn't it?---No, to fix up the, the, they made a mistake, his staff made a mistake, and he agreed with me.

It was to get him to change the way the planning division was approaching that particular project. Is that right?---No, it's got nothing, nothing to, no, no, that's not right.

- 10 How could it be otherwise construed?---Because there was a problem and the problem was based on, on the setbacks they were forcing this applicant to give when it wasn't, when it wasn't necessary because the objectives were met off a DCP so there was no need for all these setbacks.

And so obviously you were trying to get the approach that the planning division was taking, under his direction, changed from the approach that you understood they were taking to one that you thought should be taken, namely that the objectives prevail over the controls.---What I passed on is, is based on a complaint I received and based on what I saw and I believe the applicant was correct and I passed it on to Marcelo at that time.

- 20 You were trying to influence or attempting to influence the director of planning in the exercise of his functions.---That's, that's incorrect.

And you were doing so contrary to the requirement of the code of conduct in clause 6.2 at the time that councillors must not do that, that is to say in any public or private forum direct or influence or attempt to direct or influence any other members of the staff of council in the exercise of the functions of the member.---That's incorrect.

- 30 You knew of course that you weren't allowed to direct a member of staff or attempt to influence them in the exercise of their functions, you knew that, didn't you?---I never directed him to do anything.

No, no, no. You knew you were required by the code of conduct to not ever do that, didn't you?---I don't understand where you're coming from. Do what?

- 40 To direct or influence or attempt to direct or influence any member of staff of council in the exercise of their functions.---If the staff felt I was doing it as a breaking the code of conduct they would have complained to the GM and there would have been a - - -

Please, can you answer my question?---No, it's, it's incorrect.

THE COMMISSIONER: No.---No, that's wrong.

MR BUCHANAN: I'm talking about your state of mind, your knowledge was you weren't allowed to do that and the source of the prohibition on doing that was the code of conduct. You knew that, didn't you?---No.

THE COMMISSIONER: You didn't know that?---No, it had nothing to do with the code of conduct, it's to do with the passing on the - - -

No, Mr Hawatt - - -?---No.

- 10 Listen to the question. It's being put to you that you knew that you weren't allowed to direct or influence the council staff in the performance of their duties. Did you know that?---No. And I - - -

You didn't know that?---And I didn't do that either.

No, I'm not asking you whether you did or didn't do it, whether you knew that you and other councillors weren't allowed to do it.---We don't, we don't control it.

- 20 So you knew you weren't allowed to do it?---Which we don't, correct.

Right. So you knew, and you didn't do it.---We didn't do it.

But you knew you shouldn't do it?---Pass on something that's incorrect to, to, to - - -

No.---Yeah, I know what you're saying, I agree with you, yes.

Right, so Mr Hawatt knew that.

- 30 MR BUCHANAN: And what did you understand was the source of that requirement?---Of which, it's just, it's a staffing matter. We don't interfere in staffing matter and how to run their jobs.

And you knew that was required by the code of conduct, didn't you?---I didn't look into the code of conduct, I didn't read it.

- 40 You knew that was required by the code of conduct, that you not influence or direct or attempt to influence a director, member of staff in the performance of their functions?---I don't need to know the code of conduct. I've never influenced or tried to get them to do the wrong thing, so it doesn't matter.

Your avoidance of a direct answer to the questions suggests that you know that the true answer to the question is, yes, of course the source of that was the code of conduct. It couldn't have been anything else.---I, it's common sense. To me, we've never influenced or tried them to do the wrong thing.

And because that is a bad thing to do?---No. We just, it's not our job.

Why can't you then?---It's not our job. What we do is, if there's, something is wrong, somebody complains about it, we pass it on and let them make the final judgement.

Excuse me a moment. Now, you answered some questions from Mr Pararajasingham which started as questions about Mr Stavis's key performance indicators and you ultimately were asked whether, by 30 September, 2015, the process - - -

MR PARARAJASINGHAM: July.

MR BUCHANAN: - - - had been implemented whereby councillors could review major DAs.

MR PARARAJASINGHAM: I said July, just to assist my friend.

MR BUCHANAN: Thank you very much. July, indeed you did, in fact I can't read my own writing is more accurate. By 30 July, 2015, a process had been implemented whereby councillors could review major DAs and you said you didn't know but that councillors could put their concerns to the director of planning and then there's feedback.---Yes, that's what I said.

Is that right?---Yes.

Was that a process that was in place before Mr Stavis started work in March, 2015?---It's always been the, it's always been the case. You pass on to whatever director was there.

And therefore, it was the sort of thing that was done during Mr Occhiuzzi's tenure as director of planning?---Yep, and before him,

You talked about the nature of your relationship, in answer to questions of Mr Pararajasingham, with Mr Stavis. You talked about the respect you had for one another, correct?---Yep.

And Mr Pararajasingham asked you, "And any friendship you had with Mr Stavis continued post-amalgamation?" And you said, "Yes." Was that true?---Well, I was, I was still sending him enquiries and that's what I was talking about, just the, on council business.

Mr Stavis ceased being director of planning in, as we understand it, August of 2016?---Yep.

What contact did you have with him after he ceased to be director of planning?---I, I don't recall contacting him after that or he contact him, yeah, I don't recall.

And why was it that you didn't maintain your friendship with him after that time?---We had, he wasn't a social friend. It was just a, a, a, colleague of council and, and, and he was helping us with the enquiries that we made.

Would it be that you didn't continue your friendship with him after he was ceased to be director of planning because he was no longer useful to you? ---He, he wasn't a social friend.

- 10 Excuse me a moment. Again, in answer to a question from Mr Pararajasingham, you were asked questions about whether you tried to keep communications with Mr Stavis secret from Mr Montague and you said, "Never." And you were asked whether Mr Montague was aware of the type of communications you were having with Mr Stavis and you said you didn't know yes or no. Can I ask you this – I'm sorry, you went on to say, "Of Mr Stavis had an issue with my communications with him he probably would have complained to the GM about it." Did you tell Mr Montague about your private meetings with Mr Stavis?---I don't recall.
- 20 You don't recall ever telling him about your private meetings with Mr Stavis whilst Mr Stavis was director of planning, do you?---I don't recall of whatever meeting we had, I think Mr Montague probably would be aware of it because all, it's always the same problem, same issues.

And you also knew, didn't you, that if Mr Stavis complained to the general manager about any pressure you were putting on him, the likelihood is you would go the same way as Stavis's predecessor had gone.---No, there was no pressure placed on him, there was no pressure placed.

- 30 Those are my questions in further examination of Mr Hawatt.

THE COMMISSIONER: All right. Thank you, Mr Buchanan.

MR BUCHANAN: Thank you, Mr Hawatt.

THE WITNESS: Thank you.

THE COMMISSIONER: Can Mr Hawatt be excused?

- 40 MR BUCHANAN: So far as I'm concerned, yes.

THE COMMISSIONER: Thank you, Mr Hawatt, you're excused.

THE WITNESS: Thank you, thank you. I can go?

THE COMMISSIONER: Yes, you can.

THE WITNESS: Thank you.

THE WITNESS EXCUSED

[12.56pm]

THE COMMISSIONER: Now, the further progression of the public inquiry, we have one more witness, Bechara Khouri has given some evidence but did not complete his evidence and was not excused from his summons and returning to complete his evidence. I have, through the
10 Commission's secretary, notified his legal representatives that I require him to be here tomorrow morning at 9.30 in answer to the summons and to continue his evidence. His barrister has been in contact and has informed us that he is not available to attend the Commission tomorrow, so my intention tomorrow morning at 9.30 is that I will call on the summons for Mr Khouri to give evidence and then if Mr Khouri attends, his evidence will then be stood over to be concluded on a day when his counsel, Mr Stanton, is available. So that is what will occur tomorrow morning. I'm just letting you know that because Mr Stanton can't be here tomorrow morning I don't anticipate that anything of substance, there won't be any evidence called
20 tomorrow morning. On that basis if you want to be here at 9.30 you are more than welcome, otherwise if you don't want to, if you won't attend then we will, through the Commission's solicitor we will inform you what happens tomorrow morning and what is happening with the completion of Mr Khouri's evidence.

Now, putting that to one side, the last matter that I need to deal with this morning are written submissions. So assuming that we finish with Mr Khouri's evidence we will need to move into a timetable with written submissions, and I have some directions to make in respect of written
30 submissions.

The first direction is that submissions in this matter will be made available on the Commission's restricted website for Operation Dasha. I have to emphasise to you that the contents of the restricted website are subject to a non-publication direction under section 112 of the ICAC Act which was made on 6 April, 2018, and it applies to written submissions provided to the Commission in Operation Dasha. Copies of this suppression order will be made available by the Commission's solicitors when parties are notified that the submissions have been uploaded to the restricted website.
40

Now, the next direction is a timetable for the preparation of written submissions. We start with submissions by Counsels Assisting the Commission. They are due on 5 July, 2019, and I am not imposing any page limit on those submissions. Submissions in reply by the other parties are due on 2 August, 2019. They are subject to a page limit of 75 pages. Now, there is a possibility that parties may want to make cross-party submissions. I don't know whether that is going to be necessary. I'm not imposing any date for such submissions, but will require if a party, after

reading another party's submissions, wants to make submissions in respect of something another party has submitted, there will have to be an application for leave to do that. I'll come back to that in a minute. And then Counsels Assisting submissions, in response, the date that they will be due will be determined if they actually are required. In addition to submissions of Counsels Assisting, the parties will have access to all of the submissions by other parties in reply on the restricted website.

- 10 Now, if I can return to the possibility of cross-party submissions, submissions in response to the submissions of other parties may only be made by leave. Parties who wish to apply for leave will be required to identify the issue in relation to which they seek to make a submission, and then secondly, identify the nature of their interest in that issue. If any such application is made and I make a decision that leave should be granted, I will then impose a time limitation and probably a page limit in respect of any of those cross-party submissions.

- 20 So they are the directions that I make in respect of the further progression of this inquiry. The next matter is, as I said, I can't formally close the inquiry today, because we have the issue of Mr Khouri's attendance to give evidence. But if I can say in anticipation that there is going to be no further evidence called in the public inquiry, may I thank all the parties and their legal representatives for your assistance during the public inquiry. On the whole, I think there's been a couple of times when we've had a little bit of maybe robust submissions, but on the whole, I think it's been a very cooperative inquiry. I have benefited from your questions and also the very civilised way that you have dealt with each other and also with Counsel Assisting, my solicitor, and also my investigator, and I thank you for that. I thank you for your assistance, and this inquiry is adjourned until tomorrow morning at 9.30.

AT 1.04PM THE MATTER WAS ADJOURNED ACCORDINGLY
[1.04pm]