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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 MONDAY 10 DECEMBER, 2018

AT 2.00PM

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

MR BUCHANAN: Mr Montague, can I take you, please, to 26 November again, which was a day on which you were provided by Ms Carpenter with reference checks for Mr Stavis, and if I can take you to volume 3 in Exhibit 52, page 229. You can see there on the screen that it's an email from Ms Carpenter to you at 10.27 saying, "Please find attached referee checks for Spiro." And if we go over to page 230, that is the first of them from a referee called Julie Bindon, B-i-n-d-o-n, and after that at page 232 a reference from a Sandhya, S-a-n-d-h-y-a, Davidson, and then at page 235 a reference check from a referee called Kerry Kyriacou. You read those?  
10 ---Yes.

And you saw in the case of Ms Bindon, page 230, that her reference was well over 10 years old, that is to say it wasn't provided 10 years previously but that was the last contact that she had with Mr Stavis?---Ah hmm.

Looking at page 232 you saw that Ms Davidson was hardly a supervisor of Mr Stavis, rather she reported to him at Strathfield Council. Do you see that?---Yes.  
20

And you saw at the top of page 235 that Ms Kyriacou had been a colleague with Mr Stavis at Randwick Council in the early to mid-1990s. She had had ongoing contact whilst Spiro was in his own consulting firm as he represented applicants who were submitting DAs to council. You saw that?  
---Yes.

Did those references set off alarm bells for you?---Not particularly.  
30

They were obviously inadequate, weren't they?---I don't believe so.

Indeed they weren't appropriate, were they?---Well, that's what you're saying. I don't agree.

Well, did you think that references from people who had last had dealings of any substance with the person about whom they were speaking some 10 years previously was appropriate?---Didn't, didn't cross my mind. I don't put much faith in references anyway. I don't think I've ever read a bad one.  
40

You did, though, didn't you, in respect of Mr Stavis?---What do you mean?

Read references that were bad?---No, I don't think so. They weren't, they weren't that bad, they weren't bad at all, I mean - - -

You didn't receive some references later?---Yes. That was after I asked for the second reference check.

They were bad, weren't they?---They, well, I can't recall now, I haven't got them in front of me, but I don't think they were satisfactory, but I was guided more by the sentiments being expressed by the staff at Canterbury who had to work with this gentleman, that's what influenced me more, and my own gut feeling.

We'll come back to that. You saw that apart from the two referees who had last had dealings with Mr Stavis some 10 years previously, a referee from a person who had reported to Mr Stavis at Strathfield Council.---Mmm.

10

Again, not an appropriate reference, was it?---Well, I don't think so. I mean I don't think it was inappropriate, and I understand there was some tension between Mr Stavis and a particular individual at Strathfield and I can't recall the name now, which may have explained that. I, I don't know.

20

Well, you had a different view of this when you spoke to Commission investigators, I want to suggest to you, in November 2016. If I can take you to the transcript of your electronically recorded interview conducted on 3 November, 2016, page 38. Do you see – I'm sorry, if we could call it up or provide a copy. If we could just go to the bottom of page 37 of that transcript. And can you see you were being asked by the investigator about reference checks provided by Julie Bindon that indicate it was over 10 years since she'd worked with Spiro. And then going over to the top of page 38, reference check, the investigator told you, provided by Ms Davidson. They'd worked together at Strathfield Council when she was actually a junior employee to Spiro and the investigator asked you, this is at line 6, "Does any of that recollect with you?" You said, "Oh, vaguely." He said, "Okay." You said, "It started, a picture started to emerge," and then a little further down at line 14, the investigator said, "Did that cause you some concern?" I withdraw that. Going back to what the investigator said to you, "All right. So, by 26 November you had some information provided to you, a picture started to emerge, scuttlebutt around - - -" You said, "Yeah." "--- the office?" The investigator said, "Did that cause you some concern?" You said, "Yes." "About Spiro?" and you said, "Yes." Have you changed your mind about the impact these references had on you at the time that you received them from Ms Carpenter?---No. I - - -

30

MR ANDRONOS: Before the witness answers, Commissioner.

40

MR BUCHANAN: I'd ask the witness not be led, please.

MR ANDRONOS: No. I wasn't proposing to lead him.

MR BUCHANAN: Commissioner, I withdraw the question. You see that the investigator said, "So, by 26 November you'd had some information provided to you, a picture started to emerge, scuttlebutt around the office. Did that cause you some concern?" You said, "Yes." The investigator said

to you, "About Spiro?" You said, "Yes." Was that the truth?---Well, it's not a question of the truth. It's what I said at the time. I don't know now.

Well, were you giving true answers to the investigators?---Well, I tried to. I tried to answer as truthfully as possible.

Why did you say yes in answer to that question, "Did it cause you some concerns about Spiro"?---I don't know but it didn't change my opinion.

10 What was your opinion?---Well, as far as his potential suitability for the role because I offered him the job on 8 December.

Specifically, you'd received references in respect of Karen Jones, which were both appropriate and favourable, you've told us.---Yes.

These references, I want to put to you, were not appropriate references given their age, in the case of two of the, of acquaintance and given that the third one was a person who was not a supervisor of the man, but a person who reported to him.---Ah hmm.

20

They weren't appropriate references, were they?---Well, I suppose it depends what you regard as being appropriate. I, as I said, I don't put a lot of store in references anyway because no one presents a reference if it's not satisfactory or favourable to them.

Well, if the man was any good the question must have occurred to you, why didn't he nominate referees who knew him better and who had been in fact a recent supervisor of him?---Well, he'd been in his own consultancy for 15 years, as I understand it, prior to the, prior to his recommencement in local government, so I don't know what transpired, whether he had people in the sector that could vouch for him, I don't know.

30

But you knew, didn't you, that he had been employed at Strathfield Council - - -?---Yes.

- - - and Botany Council most recently.---Yes.

And yet he nominated no person who was a supervisor of him as a referee. That didn't cause you concern?---Well, I checked with Botany myself.

40

No, no, that's not what I'm asking you.---It didn't, it didn't concern me.

I'm asking you about the referees the man nominated, the result of which you could see from what Ms Carpenter provided you on 26 November, and didn't that cause you some concern, which is what you said to the investigator as well as about the scuttlebutt around the office, about the man, that he was not nominating appropriate referees but instead people who couldn't be expected to say anything significant about him for the last

10 years?---Well, look, I don't know about that. I mean that's just sheer speculation, isn't it?

Well, it's not speculation because you and we can all see those documents in front of us now. We know what was in front of you on 26 November, and you say it's sheer speculation?---Yeah, look, as I said, I, I, I don't read much into references.

10 Did you have a fixed view about the man?---I told you I thought he performed very well at the interview and - - -

Does that mean you appoint him?---Not necessarily, but I could.

So you take into account his references as well, don't you?---Well, you do, to a point.

20 And you don't feel any sense of alarm at the nature and character of the referees identified by Mr Stavis for the purpose of persuading you that he would be an appropriate person to fill the job of director of planning?---Not really.

Mr Montague, that suggests that either you're not telling the truth or else that you had a fixed view about Mr Stavis, that you were taking into account factors that you're not telling us about.---No, that's not right.

Well, what other explanation can you give - - -?---Well, I don't know, I don't know, I'm not - - -

30 - - - for overlooking or ignoring or giving no weight - - -?---I - - -

- - - to the plainly inappropriate nature - - -?---Again - - -

- - - of the referees he identified?---Your, your opinion that they were inappropriate.

Well, why is that not correct?---Well, I don't know. You're asking the question.

40 You can't tell us why it's incorrect?---No, look, I've said I don't put a lot of store in references in any event. I'd rather trust my own assessment of an individual and he interviewed extremely well at, at the interviews. He did very well. His background to me made me think that he'd be, as I said earlier, a breath of fresh air, he'd bring a different perspective to the job of director of city planning. He might have been a rough diamond and maybe he needed to be discovered, I don't know, but I thought he was worth a try.

You didn't know?---No.

And that was the basis upon which you made the decision - - -?---I didn't know what?

Well, you're the one who said that, Mr Montague. You didn't know.

THE COMMISSIONER: You said it, described him as a rough diamond.  
---Yeah, well?

10 He could have been a surprise.---Could have been. How many times have you seen where a person when they are appointed to a role like this they step up to the mark?

MR BUCHANAN: And that is an appropriate basis upon which to appoint a person to a position of director of planning at local government level?  
---I thought he had the necessary background to do the job adequately.

20 That's not the question I asked you. I'm asking whether, given what you've told us, you didn't know, and you thought he could be a rough diamond, you could just take a chance, that is an appropriate way in which to approach the task of selecting a person to be appointed to a senior staff position under the Local Government Act. Is that what you're telling the Commission?  
---Sometimes it is. Sometimes it could be an ideal appointment, it could work out very well, it has in other cases no doubt.

THE COMMISSIONER: But this was supposed to be an appointment on merit.---He had, he had, he had certain qualities and background that would make him, in my view, that's open to question, a meritorious applicant.

30 Over Karen Jones?---No, sorry, Commissioner, I wanted Karen Jones in the first place. Karen Jones was an outstanding candidate and so was - - -

40 Mr Manoski.---Manoski. Now, we know the background, we know what happened, and these events were happening very, very quickly. There wasn't much time to think it all through. And I was, I was in a situation where I, I was, well, distressed about what was happening in the council at the time politically. There were a lot of forces at work and I hadn't encountered anything like that before and I guess, to some extent, I panicked. But later that changed, of course, and, you know, we'll go into that at a later time, no doubt.

You gave evidence that Mr Azzi said to you he wouldn't have a woman.  
---That's right.

That's in breach of the state Discrimination Act, isn't it?---Well, clearly it is, but it never went that far. I mean, would, would anyone have gone on with it? Would she have gone on with it? Would he have gone on with it? I don't know.

Well, she's an adult. It's up to her to accept a position and determine whether she wants to stay in the position.---Yes, yes, of course.

But you've given evidence about, that if you had, for example, discovered about the questions being given to Mr Stavis beforehand, other questions of conflict of interest, you would have aborted the process or established a new committee.---Yes.

10 Here you have a councillor breaching legislation and you don't abort the process there or re-establish a committee.---I'm sorry, Commissioner, you had to be there to know what was going on and how it was going on and the pressure that certain individuals were under. I, if I had my time over I admit I'd do things differently. I did what did, I thought it was in the best interests of all concerned, and I can't change that now.

And when you talk about people under pressure, you're talking about yourself?---As well as others who were being, who were under some pressure.

20 And, sorry, who were they?---Well, in the council itself. I mean, things weren't very good. Political relationships were very bad indeed.

But, I'm sorry, are you talking between councillors or - - -?---Well - - -

- - - with councillors and staff or - - -?---Between councillors. No, the administration of the organisation and the relationship between the staff and the, and the council was pretty much what it always was. But there was certainly a certain, there was certainly pressure being exerted on me. The politics of the council were caustic at the time. I didn't know which way to  
30 jump. The mayor, and I say this advisedly, the mayor really had lost control of the caucus, or the Labor councillors anyway, and this group was formed and that's, that's the genesis of the whole problem we had. That group was running amok. I knew that. I didn't know how to stop it. I didn't know who to talk to about it to get advice. If I had my time over, there's no doubt I'd do things differently, but that, that's how it was and that's what I did and I can't change it. I didn't depart from the normal process of recruitment of senior staff. It was a process I always followed as far as interviewing, except for the panel, of course, which I've already admitted I think was a  
40 mistake. But can't undo that either. I wish I could.

MR BUCHANAN: I wonder if I could just unpack some of that evidence you've just given, because what the Commission needs is evidence of what it is that you're talking about. You've mentioned pressure that you were under. You've mentioned forces that were at work. You've said the politics were caustic. You said you had to be there at the time. You've said if you had your time over, you would have done things differently.---Absolutely.

Can I just ask you, what was it that you mean, what were the events that occurred or what was it that you are referring to when you say the pressure you were under?---The behaviour of the two councillors in particular was a concern. The fact that the relationship between the mayor, who I report to notionally, the relationship between the mayor and some of the councillors – not all of them – was very unsatisfactory, and that’s what caused the, the junta to be formed in the first place, and you have to understand the history of the council going back 15 or 20 years or more to know what I mean by that.

10

Well, isn’t it your evidence that things changed after the 2012 election? ---Oh, absolutely, but that’s what I’m saying, that in 2012, when this particular group of councillors, councillors arrived, there were forces at work then, as I said.

What are these forces?---Well, just the politics of the individuals, their personalities, the way they did things.

20

Who were you talking about?---Azzi and Hawatt, obviously, plus the other councillors who really adopted a fairly passive approach. They didn’t support them there as they possibly should have and I, and the place, the politics of the place changed dramatically.

And so in what way – I’m sorry. Where did the pressure come from that you were under, that you’ve been referring to?---Well, maybe, look, maybe it was just up here. Maybe I, I - - -

Indicating your head?---Yes, but I thought - - -

30

Why did you feel under pressure?---Because of the way the council was, was being conducted. There were decisions made back in 2013, and we’ve covered here in this place in relation to certain DAs that I didn’t approve of, and I remember the night vividly. It was pretty obvious to me that the, the two councillors in particular, Azzi and Hawatt, had an agenda and it didn’t - - -

And what was that agenda, as you understood it?---Well, my, and I don’t disagree with it necessary, it was that they wanted to see things change.

40

What did they want to see changed?---They wanted the area to grow. They wanted the area to be more prosperous, if you like. They wanted investment in major, in major projects in Canterbury, particularly along Canterbury Road and other areas that have been degraded for years.

But there of course is nothing wrong with people taking a political view of the type of development that they want to see occur and the rate, rate at which it should occur.---No, as long as it complies with the code and the, and the instruments.

Quite. And what I'm asking is, in what way did you feel that you were experiencing pressure in this regard? What do you mean by that? What is it that happened that leads you to describe that in that sort of rolled up fashion?---It's, it's how I, it's how I distilled it. I think it, it was just an unhappy place at, at that level.

Were you being yelled at?---No, they wouldn't do that. They know they'd get plenty back for their coin.

10

Well, in what way were you placed under pressure in your feeling?---Well, it's just this expectation that, that, you know, things had to get done and, and I, I couldn't say the politics of the council, it's not my role anyway and I, I felt that there was a huge schism between the mayor and the, and the councillors – some of them, not all – and that that was contributing to a position where, as far as the staff at large were concerned, that they also I thought understood that the council was being run by this group, which comprised Labor and non-Labor councillors. It's never happened at Canterbury before, ever.

20

THE COMMISSIONER: Can I just ask you, you gave an answer a little while ago along the lines of, "There were decisions made in 2013 re DAs, which I didn't approve of."---Yeah, I didn't.

What were they?---There were a whole series of development applications, I can't remember the locations now, but they're in, they're in the transcripts, they're in the evidence that's been given, and I remember vividly one night the IHAP made certain recommendations in relation to these DAs and they were all overturned by the council and that was a bad look. I, I said to mayor at the time, "We've got to do something about this." We did, we reconvened a meeting, an informal meeting out in the function room around a table and we tried to talk it through. It achieved nothing, they went straight back into the council chamber, despite the mayor's protestations and mine, and resolved to approve these applications, notwithstanding that the IHAP and the officers didn't approve them, and that's where this whole issue with the development controls out there fell off the rails. That very night, in October I think it was, 2013, twelve months after they were elected.

30

40 MR BUCHANAN: You aren't confusing development applications perhaps with planning proposals, the Residential Development Strategy?---No, I'm talking planning in general, whether they're major instruments or whether they're individual DAs. Most of them - - -

30 or 31 October, 2013?---Yeah. You're right. Most of them were planning proposals.

And then subsequently, 2 October, 2014?---Well, I can't recall that date but the one in October '13, I do remember.

When you say in relation to the appointment of Mr Stavis that if you had the opportunity to, if you had your time over you would have done things differently. What, if you'd had your time over, would you have done differently?---I wouldn't have formed the panel and that, that's for a start. I would have interviewed myself with other people, other staff, probably cross-divisional and the, I, I may even have included the HR manager, although he was a, a fairly, even though he's manager, he wasn't a very experienced one and I, I think he would have been out of his depth but be, be that as it may, I would have conducted the interviews the same way I had in the past, without the panel and I would have prepared a report for council, recommending the appointment and individual for the council to consider. That's what I consider to be consultation. That's how I would have done it and there wouldn't have been any of this nonsense with the day the interviews were conducted, how the councillors behaved, that wouldn't have happened.

20 But you received contacts, didn't you, from Mr Hawatt and Mr Azzi about who should be appointed? This is after 17 November panel interviews?  
---Yes. Well, indirectly.

If you'd had your time over you would have still received pressure, wouldn't you?---Yes.

30 Contacts from Hawatt and Azzi?---Yes, but I still would have, I just would have pushed back and said, right, it's going to council consultation, even though I believe under the Act I have the authority to make the appointment anyway, and consult with council by telling them I've done it, but that would have been a very risky strategy in the, in the, in the political climate at the time.

Are you saying that had you not had the interview panel you would have happily appointed Karen Jones rather than Spiro Stavis?---I can't say that because I, I never got to the end of that process with her, I, you know, there were more things to be done, but, and I didn't - - -

40 Well, what I'm trying ascertain is, in what way would not having had the interview panel convened with Hawatt and Azzi as members of it, have changed the outcome?---I probably would have recommended either Karen Jones or Manoski to be appointed to the role. Now, I'm not saying that would have changed anything because as you're alluding, the councillors wanted Stavis, they would have overrode me anyway when that report went to council, even though, as I said, under the Act I believe I have the authority to make the appointment and just serve it up to them, but again a risky strategy. You know, general managers are not indispensable and naturally I had, I had a thought for my own career, if you like, even though I

was retiring within a couple of years then. So I suppose to some extent I wouldn't have had to deal with all of that angst around, around the interviews and the interview day itself, which was very difficult, very difficult indeed.

10 But you still would have, wouldn't you, received contacts from Hawatt and Azzi with a view to persuading you to appoint Azzi, I do apologise, to appoint Stavis?---Yeah, but it doesn't mean I would have succumbed to that. I probably would have just dug in and said, look, it's going to council, you make your decision and I'll abide by that decision.

But why wouldn't you have succumbed?---Well, why would I? I mean I'm not in the habit of being pushed - - -

20 Because you did.---No, well, I didn't. I'm not in the habit of being pushed around by people and they knew that. I had very little contact with both of them in, in, in, in the day-to-day stuff, except over this, this particular appointment. That's, that's, and I think to my own detriment I gave them that platform.

So we can assume that most of the contacts that are recorded between you and Hawatt and Azzi during this period were about the selection of the director of city planning.---I, I think that's, that's a, that's a pretty courageous assumption. I don't know, I said before, I don't know. They, they wouldn't ring only about that. They'd ring about other things.

THE COMMISSIONER: You said - - -

30 MR BUCHANAN: An objective observer might consider that the organisation you're describing is pretty dysfunctional.---No, I wouldn't say that at all. It was certainly functional at the officer level and the administration continued on unabated. Where it became dysfunctional was at the political level, and by reason of my role I got caught up in that, I had to, because, and, and again I say this advisedly, the mayor was virtually ostracised by his own people – some of them, not all – and he, he, they were meeting without him, they were meeting in all sorts of places to discuss things, and Councillor Hawatt in particular behaved as though he was the major.

40 THE COMMISSIONER: Why did you describe the interview day as a very difficult day?---Because it was very difficult indeed. I didn't enjoy it at all. I realised at that point that I'd made a mistake, I, I trusted the two of them to behave themselves.

And that was when I think you described them as aggressive and assertive during - - ?--They were, they were rude to Karen Jones, I go further, they were rude to her. And, and that didn't please me at all, you know, I felt embarrassed. But the council functionally was very, very strong. You

know, I had, I had a terrific senior leadership team and managers and staff who were committed to Canterbury. I had no issue there at all. It's only when you try to connect the administration with the politics of the place that the wheels fell off.

10 MR BUCHANAN: Was that the sort of thing which, where you should have considered reporting that to the Office of Local Government?---Oh, you can say that now but that doesn't, that doesn't get you anywhere. When I did file a complaint in relation to the way that councillors treated me to this august organisation, what happened? It was flicked to the Office of Local Government and it became a HR issue. And with respect to Mr  
Murphy, when he came out I was bitterly disappointed that all he wanted to talk to me about was how do we keep our filing system. It didn't get me anywhere.

20 If it's possible for you to do so, can you separate out what should occur as you understand the way the Local Government Act is written and is intended to operate from what did occur as a consequence of you making your report of early January 2015?---I did what I thought was appropriate at the time. I believe - - -

I understand that. But - - -?---I, no, but I believed I was been bullied by those councillors so I reported it to ICAC. I thought it was a form of corruption.

Were there any – I withdraw that. However, you have made it clear that the council politically was dysfunctional - - -?---Yes

30 - - - prior to that occurring.---Well, it happened after 2012. It happened, look, I can remember on one occasion where Councillor Azzi spoke to the mayor and tried to smoke a peace pipe and, and get Brian onside, right? I remember that vividly. It didn't work, and I don't know why. I wasn't present at the meeting. But things got worse and worse between Azzi, Hawatt and the mayor, and that's why I say that joint was dysfunctional.

40 But that's what I'm asking you to think about, whether it occurred to you that it might be appropriate to involve the department, the Office of Local Government, if not the Minister, with a view to considering whether there should be consideration by the Minister of exercising his powers to temporarily suspend an appointed administrator.---Look, I could have done that but I didn't think it was, things were that serious, and I, and I chose not to. I mean, I didn't, didn't want to do that. I don't, and again I haven't had a great experience with the Office of Local Government since it became an office and not a department, and I'm talking a long way, a long way back. It's had various iterations, the Office of Local Government, and generally speaking most people are fairly dismissive of it.

What is the level of dysfunction, particularly political dysfunction, which in your view would require a report being written to the office, if not the Minister, with a view to an inquiry being conducted with a view to appointing an administrator?---There could be a whole range of circumstances and I'm not going to sort of - - -

But they hadn't reached that level at Canterbury in the way you describe them?---I don't think so. No, I don't think so.

10 Even before 24 December?---No. The, the appointment of the director of city planning and the subsequent termination of his employment was the thing that, that, that was the catalyst for what happened after that. Now, I could have handled that better too but I, again, I felt very much alone and I was doing what I thought was the best interests of the council and the community, more importantly, to try and quell the dysfunction and to try and keep the administration ticking along regardless of the, of the political, you know, problems that were obvious.

20 Did you take Bechara Khouri into your confidence?---No, no. He wouldn't know anything about it. He, he, no.

Wouldn't know anything about it?---He wouldn't, he wouldn't care. It's not his, his role. I was the general manager. I was responsible to sort these things out. Maybe I failed, but I can't change that now.

30 Mr Montague, do you understand that the Commission has evidence about the role that Mr Khouri was playing in the recruitment of a candidate for director of planning which is quite at odds with the answer you've just given?---Well, see, if you take it out of context, I'm telling you that Mr Khouri did not interfere in the day-to-day administration of that council, nor would he seek to. Now, in relation to the planner - - -

But would you talk to him about the problems that you were experiencing? ---No, oh, look, I didn't have to. He knew what the political issues were better than I did.

40 And so you didn't take the opportunity of, you know, sharing with him the problems that you had and seeing whether he had any ideas?---Over a coffee I might have had a bit of a whinge, but that was more just to get it off my chest. I didn't expect him to do anything to help me. He couldn't. There's nothing he could do. But he was hearing this - - -

He could use his friendship with Hawatt and Azzi.---Well, possibly. He, he certainly - - -

You knew he was a friend of Hawatt and Azzi.---Yes.

So why didn't you use him to intercede as it were?---Because, because it's not his role to do that.

You say that but plainly it was his role - - -?---No.

- - - that he exercised from time to time in relation to developments for example on behalf of Mr Demian.---Well, that's a different, that's a different kettle of fish.

10 It's just a different subject that's all.---That's all. As I say, a different kettle of fish. But, look, I think everyone's overrating, Mr Khouri's got a big opinion of himself and his own ability to influence people, but I think it's, I think it's a bit overrated.

You've seen the degree of his involvement in, it can reasonably be concluded, providing support to Mr Stavis for the purpose of preparing him for his interview.---Yes, but he did that without any reference to me.

20 But it doesn't come to you as any surprise?---Not really. I mean - - -

Or does it?---Not really. He, he saw, look, I don't know what was going through his mind. I understand he hasn't been discharged yet so maybe he'll be back. Perhaps you should ask him that. I don't know what he was doing.

This is the question we're trying to ascertain from you now.---Yeah.

30 Is it right that you didn't know what he was doing? Is that right?---Yes. I didn't know about those clandestine meetings he had with different people in the run-up to the interviews. I didn't know anything about that.

You didn't know that he was regularly in communication, almost daily in communication with Stavis?---No, not to the extent that it's been revealed. It didn't surprise me that he may have had one or two conversations with him, but to the extent that we've now seen, no, that was a complete surprise to me.

40 And in your meetings with him at the coffee shop at which you might unburden yourself of the problems you had, he didn't indicate that Stavis might be a solution for some of your problems?---No, no. He didn't interfere in the, in the process to that degree. He interviewed, he, he referred Stavis to me as we know and he was told to lodge an application through Carpenter. That was the extent of it.

So can I take you to a document which you might have seen before. Volume 4, page 117.---Oh, jeez.

Now, I'm going to ask you a few questions about passages in this document. You can see that it's addressed to the Office of Local Government.---Yes.

And if we just quickly flip through the pages. It contains what purports to be a chronology of events, the subject of, on the subject of the appointment of Mr Stavis going through to about page 4. I'm going to ask you to assume that Mr Hawatt had input into the drafting of the document. So that's an assumption I ask you to make in listening to my questions and responding to them okay.---And by the way just a statement to keep the record straight.

10

Yes.---I don't know that I have seen this document before.

Oh, fair enough. That's quite okay, but just then in that case could you in the flipping through of it you see the chronology of events?---Yeah, yeah.

That doesn't look familiar?---Not really, no, and I've got a pretty good idea who wrote this but still, that's by the by.

20

And if I just take you to the last page you can see that it's got space for signatures of councillors.---Yes.

That doesn't ring a bell with you either? It's not something I'm suggesting you should have memory of.---No, no, I don't know that I've ever seen it, truthfully.

Okay. Rightio.---Do you know what date this was?

30

Created on or before 5 January, 2015.---Yeah, well, by that time the war had broken out.

Certainly. And I don't want to dance around the fact that it could be viewed as a weapon being used in the war, bearing in mind the assumption that I've asked you to make that Mr Hawatt had input into its drafting.---Yeah.

But what I want to do is put to you just aspects of it and invite you to respond. Excuse me. Item 7 and 8 on page 118, perhaps I could just take you to 4 and 5, if you just quickly read through those yourself.---3, 4 and 5?

40

Item 4 and 5 on page 118 in the chronology, and item 6, just to get a context.---Yeah, that're pretty, pretty accurate.

Then item 7 reads, "We are advised that the general manager met approximately a week later with Councillor Hawatt and Councillor Azzi. The three shortlisted candidates' reference checks were discussed by the general manager with Councillor Azzi and Councillor Hawatt." Can you see that?---Yes.

Is that correct?---I don't know. I don't know who wrote this, where they got their information from. I know who wrote it but I don't know what they used as their source.

No, no, no. That's not the point. That's not the point. First of all, I've asked you assume that Mr Hawatt had input into its creation and, secondly, I'm asking you whether it's correct.---Well, I don't, I'm answering, I don't know.

10 THE COMMISSIONER: Do you recall whether you met with them?---No.

MR BUCHANAN: You don't know whether you had a meeting with Mr Hawatt and Mr Azzi in which the referee checks were discussed?---No, I don't remember that.

Is it possible it did occur or is it possible it didn't occur?---Yes, it's possible, anything's possible. At this state of, of, of the proceedings, anything was possible.

20 What do you mean by that?---Well, they were out of control. I, I mean, this  
- - -

No, no, no. Please, I'm trying to ascertain whether allegations that are contained here have factual basis to them.---And I, and my answer is I can't say.

30 Is it possible that you did meet with Councillors Azzi and Hawatt and discuss those three reference checks?---It's possible but, but I think improbable, but still, that's, that's, sitting here, here and now,

Why improbable?---Because why would I, it's not the sort of thing I'd discuss with them. We'd made it, I, I, in my mind, I knew how I was going to proceed. What date was this again, sorry?

5 January. It was created on or before 5 January.---Yeah, so I've already, yeah, okay. 5 January - - -

'15.---'15. So, I've offered him the job and I've withdrawn that offer or - - -

40 THE COMMISSIONER: Yes.

MR BUCHANAN: But that's all sort of, in a way, irrelevant.---Well, it's not because - - -

It's the allegation that is here, and we're just trying to ascertain, looking at that allegation, irrespective of when it's made, pretend it's made today. Is there factual basis for that allegation that you had a meeting with those two

men in which you discussed the reference checks?---It's possible. That's all, I'll go that far, but I don't think it's likely.

10 Just thinking back, generally speaking, after 17 November, 2014, when the panel was convened and before 8 December, when the letter of appointment went out to Mr Stavis, were there contacts that you had with Mr Hawatt and Mr Azzi about the selection of a candidate for that position?---Oh, I could have had a conversation with Azzi. I don't know about Hawatt. Azzi probably just repeated what he said, pardon me, earlier. "If you don't put him on, find a job for him."

Well, are you saying that that is something that he said to you during that period?---Yes. Oh, well, he said it at some stage. I don't know exactly when. He said it more than once, "If you don't put him on, find a job for him."

20 And do you remember him saying that before or during or after the interview panel sat?---No, it would have been after the interview panel I'm pretty sure.

So it would have been between the interview panel on 17 November and 8 December?---Yes, I think I would say that's fair.

THE COMMISSIONER: Can I just ask, Mr Montague, in that period did you anticipate, you had the interviews and you had input from the councillors and the mayor, that you would then embark on Ms Carpenter checking the references?---No. I, well, there were two sets of reference checks. The first one, we've already discussed.

30 MR BUCHANAN: That's not an answer to the Commissioner's question, Mr Montague.---Well, I'm sorry, I must be - - -

THE COMMISSIONER: Sorry, Mr Montague, I'm just trying to work out what the procedure theoretically would have been. You had the interview panel and you would have received input from the councillors and the mayor about their ideas?---Yes.

40 Then ideally the next step would be to get Ms Carpenter to check the references?---Yes.

And then did you anticipate, with all that information, you would sit back and determine, "I have decided X would get the job"?---Pretty much.

And then once you made that decision, did you anticipate you would inform the councillors - - -?---Yes.

- - - the councillors as a whole?---And, and the staff.

And the staff that X had got the job?---Yes.

All right.

MR BUCHANAN: But did that theoretical construct get departed from inasmuch as you were having dealings with Councillors Azzi and Hawatt during that period to discuss who would be the appropriate candidate?  
---No, I don't believe I did that, because I'd made up my mind after the interviews and all I knew for sure and certain was that Azzi, and Hawatt  
10 didn't say much, but Azzi wanted Manoski over anybody else and if that didn't work out, it would be Spiro, it wouldn't be Karen Jones. That's the only thing I really remember.

Well, in case I cast it the wrong way I'll reframe the question. Is it the case that between 17 November and 8 December, Azzi and Hawatt approached you?---They could have. I don't, I can't recall, but they could have. Things were happening at, you know, rapid-fire pace.

So the evidence you've given us is that in relation to item 7 on page 118 of  
20 this, of volume 4 which has part of this chronology, in relation to item 7 it's possible that you met with Hawatt and Azzi - - -?---It's possible.

- - - about a week after the interview panel?---Yes, possible.

But not likely. Is that what – could I just ascertain what you say?---They were the words I used. I'd say - - -

Well, no, I think I might have misquoted you.---No, I said improbable.

30 You said it's possible but not – improbable is what you said.---Yeah.

THE COMMISSIONER: Improbable.

MR BUCHANAN: Now, item 8 says, "Based upon these discussions it was decided by the general manager, Councillor Azzi and Councillor Hawatt that the most appropriate candidate should be Mr Simon Manoski."---Yeah, well, see I take issue with that because as I said, and I don't want to split hairs, but what concerns me with this document is that where did the information come from and have they had a little bit of poetic licence here.  
40 I don't know who sat down and drafted this.

THE COMMISSIONER: Mr Montague, I think that's what we're trying to explore.

MR BUCHANAN: We're perfectly happy for you to tell us this is fairyland material.---Well, a lot of it would be.

That's, it's not - - -

THE COMMISSIONER: And that's what we need you to identify, according to you - - -?---Commissioner, there was clearly discussions between the two councillors and another party, and I think I know who that may have been.

MR BUCHANAN: Who?---Well, it was in all probability, and I don't want to drop the bloke in it, but I believe it was Kent Johns, the former mayor I think he was of Sutherland at one stage.

10

But that's another matter. You've seen his involvement in the evidence that's before the Commission in the creation of this document. That's not the point. The point is, is the allegation that "It was decided by the general manager, Councillor Azzi and Councillor Hawatt that the most appropriate candidate should be Mr Simon Manoski" correct or not?---No.

20

Not correct?---No, because, because certainly as far as Hawatt's concerned, because Azzi said Manoski or Stavis, not Jones. Hawatt didn't say much at all. So I think they've, as I said, used a bit of poetic licence here. Don't let the facts get in the way of a good story.

Thank you. Now, you might recall receiving an email from Mr Robson on 26 November giving you his ranking of the three candidates?---Yes, vaguely.

Which I want to suggest is Jones, Manoski and Stavis.---Yes.

In that order.---Yes.

30

And you then initiated your meeting with Mr Stavis at Giorgios.---That's right.

This is on the 26<sup>th</sup>.---That's right.

Given the qualities of the candidate which Ms Carpenter had pinpointed in her email at 10.24am, which I might need to send back to you, sorry, take you back to, that's at page 237 of volume 3.---Yeah.

40

Sorry, I think it's wrong to say take you back. I haven't taken you to this. This is an email from Ms Carpenter to you, starting at about point 3 on the page. Do you see where it says Judith Carpenter with her email address, 26/11/2014, 10.24am?---Yes.

"Good morning, Jim." And then she assesses the merits of the two candidates, Jones and Stavis. Do you remember seeing this?---I don't remember but I must have seen it.

She says, "I thought it might be useful to summarise the two candidates you are considering." Under the heading Karen Jones she says, "Broad organisational management experience." A bit further down there's the fourth dot point, "Strong track record in change management." Goes into detail about that. "Established a strong reputation in the department as a change agent." Next dot point she has, "Deep experience in people management." Those were criteria that you had set for the position, weren't they?---Yes. Well, they had been set.

10 Well, who set them if it wasn't you?---Well, I did in conjunction with Judith Carpenter.

And under the heading Spiro Stavis she said, "Limited experience working in large organisations." That was correct?---Yes.

"Has never worked in an executive team or at executive level." That was correct?---That's her opinion.

20 Well, sorry, it's either a matter of fact or not.---Well, they're, they're - - -

Either he had worked at executive level or in an executive team or he hadn't, and according to Ms Carpenter, he hadn't.---Well, I, I'm not arguing that she's not right, but they're her words, not mine. I don't know. I mean, she's formed this opinion and I, you know, I, I'd be loath to disagree with her. She's a professional.

But then there was no experience in management.---Well - - -

30 Which was something that you sought.---Yes.

As against Karen Jones, who did have it.---Yes, but she, yeah, well, okay.

And then if you could go down to the third last line on page 237. "A perceived lack of political acumen." Do you see that? Third last line on the page.---Well, you see, I don't necessarily agree with that commentary. I, I don't know what his political acumen was and I don't think she did either. It's just a bunch of words. I don't know how she came to that landing.

40 You told us that you thought Mr Stavis exhibited anxiety to be appointed when he met with you later that day.---Did I say that?

Yes. Very, very enthusiastic about being appointed.---Yes. That's different to saying - - -

That was your impression?---Yes.

It didn't in your mind make him, shall we say, malleable?---No. I liked the enthusiasm. I thought that was a good, that was a plus. That was something that we were looking for.

But he wanted the job rather than - - -?---Of course he did. He wouldn't have applied if he didn't.

10 - - - would do a good job.---Oh, dear me. We can, Mr Buchanan, we can split hairs about this all day. I don't know what motivated him. He needed the job, there's no question about that, but so do a lot of people. And usually when you apply for a job you put your best foot forward, and I don't see there's any harm in being enthusiastic about being appointed to a role that you've applied for, and that's one of the reasons after that that I limited the contract to 12 months, to give him a chance, to let me see what he could do and let the councillors, more importantly, see what he could do.

Well, just to pick you up on that point. When you say that's the reason - - - ?---Well, one of the reasons.

20 - - - that you limited the contract to 12 months, don't you mean he did not appear to be a suitable candidate for appointment but I was prepared to take a risk for whatever reason?---Well, you can put it that way, yeah. I don't disagree with that assessment.

30 Then the question is, what was the reason you were prepared to take the risk, notwithstanding he wasn't a suitable candidate?---Because I thought he displayed qualities that would be beneficial to the organisation, one that was hidebound and stultified over many years in terms of the performance of - most of them have now long left Canterbury and I went back, I was there in '82 and I can tell you the planning division was always a problem.

So, in what way did Mr Stavis persuade you that he would be able to change things?---Well, because he, because he said, dear me - - -

He didn't say to you, according to you, that he was a solutions kind of guy? ---Well, no. I, I don't like the word solutions.

40 What was it that he said that indicated to you that he would change things? ---I don't like the word solutions because it's been given a bad name in this place.

But that's not the point. Was it used?---It, no, no. I, I was talking about quality planning outcomes for everybody, for the council, for the community, for the applicants, whoever they are, and, and, and for the staff.

My question to you is, what was it that he said to you that night that persuaded you he will change things?---Because that's what he said to me and I didn't have any reason to disbelieve him. He was very enthusiastic, I

don't think there's anything wrong with that. I don't think there was an ulterior motive. He needed the job, wanted the job, absolutely.

What was there to indicate to you that he was capable of changing things?  
---I, well, I, I thought, from the interview process that he was. He answered the questions as well as either of the other applicants – well, sorry, there were more than three interviewed – but he answered the questions as well as any of the people interviewed that day. I thought he was worth a chance.

- 10 If I can take you to page 238. Ms Carpenter wound up, “Jim, it would seem to me that there is no real comparison. Given Spiro’s lack of management and organisational experience, it would be a very surprising move to appoint him. It would fly in the face of a merit selection process as set out in the 1993 Act,” that’s a reference to section 349 of the Local Government Act, “and I think it would open council to questions from the Office of Local Government, particularly seeing since the planning role is such a sensitive one. My concern also is that in appointing Spiro, you would set him up for failure even before he starts. He will be dealing with entrenched and difficult staff and has no experience in this.”---Well, I think, I think the key  
20 word is they’re entrenched and difficult staff, precisely.

And so she's telling you he's not going to be effective in changing that. There was nothing in his track record to indicate he was capable of changing that. According to you, he didn't say anything to persuade you to indicate how he was capable of changing that. Ms Jones had a track record as being a change agent and deep experience in people management. What we're trying to understand is how in that, against that background, you could possibly have decided that Mr Stavis would be a meritorious appointment?  
---I thought so at the time and I still do.

- 30 That’s not an answer to my question. I'm asking how could you have considered it, in the light of what is summarised here by Ms Carpenter, to have been a merit-based appointment?---He, that’s, they’re her, that’s her opinion. I, I, I didn't have to accept her opinion.

- THE COMMISSIONER: But we know that, but what Mr Buchanan’s asking you, you referred in a previous answer to a gut reaction. Was it totally a matter of a gut reaction or a feeling you had or – because at the moment, Mr Montague, it just seems so stark, given the quality of the  
40 references, given particularly Ms Jones’s experience and her qualities, that Mr Stavis really was the third candidate, and what we’re trying to come to grips with is why he was then appointed in December. What went through your mind as to why you appointed him, or made him an offer, I'm sorry, on 8 December?---Because I thought it was worth, he was worth a chance. That’s what it came down to. He handled the interview very well, as well as any of the other candidates. He had a different type of experience altogether, in private, in private practice, which I thought would have been helpful. He, he had no baggage from local government in recent years and I

thought that was pretty good too. He had, he did have qualifications in town planning, perhaps not as high as some of the other candidates, and I thought he could probably do the job, hence the 12-month contract.

Do the job and merit are different, aren't they?---Well, I suppose they are but I, I didn't see him as a person who wasn't, who, who couldn't satisfy that merit appointment criteria. I didn't, maybe I was wrong but I thought he was worth a punt.

10 MR BUCHANAN: When you say he had no baggage from local government, in fact we know, and you understand the evidence too - - -? ---No, I said in recent years.

- - - you had no evidence that he didn't have baggage.---Well, he's, look, his, his private practice influenced me greatly because he had a totally different range of experiences in that role, as in a private practitioner's role.

But you're changing the subject. I'm asking you about your statement he had no baggage in local government.---Well, that may, look, I withdraw that because he, he obviously did I agree but - - -

But you found out about that later.---Yes.

What you had is a gap. You had a 10-year gap in his record that wasn't satisfactorily accounted for and you didn't think it was at all peculiar that he didn't nominate his current or previous supervisor?---Maybe he didn't have any. I don't know.

30 He didn't have a supervisor?---He didn't have anyone who was prepared to write him a reference.

THE COMMISSIONER: Isn't that an alarm bell?---Oh, look, I've said repeatedly here I don't put a lot of store in references. I, I trust my own instincts when it comes to people and I thought he was, he was a good interviewee, he did well at the interviews, I repeat, and he, he impressed me as somebody that was prepared to give it a go despite the, you know, the obvious, the obvious difficulties he was going to face.

40 You had no references from any of his clients from when he was in private practice?---No. No, not that I recall, no, no.

MR BUCHANAN: And you did place store on references, didn't you? You placed store on the references you saw after 8 December.---Yes, I did then because, well, a different set of circumstances.

Why was it different after 8 December?---Because I found out things that I didn't know that were, in my opinion were more important, that is, the staff

already had a set against him because of what they knew about him at that level and that, that concerned me.

But that wasn't the matter that you drew to people's attention when you said you were changing your mind. You said you were changing your mind because of these new references that you'd received.---Yes.

So you did place store in references, didn't you?---In, no, but scuttlebutt. No, I said scuttlebutt in the office. I had one planner who was - - -

10

Please, Mr Montague, that isn't what you've said at the time. The record shows that what you relied upon at the time was the references you received from Ms Carpenter after the appointment of Mr Stavis on 8 December. ---Well, okay.

So you plainly were a person who did place store in references, weren't you?---No.

20

And it's wrong for you to say, it's simply misleading the Commission - - -? ---No, it's not.

- - - to say that you didn't place store in references in respect of the period before he was appointed?---I don't in general terms because I very seldom read a poor reference. That's the point I'm trying to make. You ask somebody to give you a reference, particularly if he's a friend, sure, he'll give you a glowing reference. It doesn't mean he can do the job.

30

THE COMMISSIONER: Can I just ask you, with Ms Carpenter on page 237, she compares Mr Jones and Mr Stavis. Mr Manoski seems to have fallen through the cracks.---Slipped off the radar.

Yes. Do you know what happened there?---Well, I think there she couldn't follow up on the references or he wasn't available or something. I don't know the full history, Commissioner, but there was a problem with Manoski because I, I had the same problem when I tried to arrange a meeting with him as well.

40

Because I think he did go overseas on holidays or something.---He was, he was overseas. That's right. He was, but I also, yeah, look, he was overseas. He couldn't be contacted and that made things even more difficult.

MR BUCHANAN: Is it to make an appointment that is merit based within the meaning of that expression in the Local Government Act to take a punt on somebody as against when there's a competing candidate with a proven track record?---Of course not. I think that's just a, a figure of speech. I, I thought - - -

Accept that that figure of speech is what you've used to explain what otherwise is inexplicable.---Well, in your opinion it's inexplicable but I don't believe it is. If you were there and you went through it the way I did you'd understand what I'm saying.

And when you - - -?---It's easy to do it now.

- - - say that you're talking about the pressure you were under.---Yes.

10 And so what you're doing without using the actual words you're saying I appointed Stavis notwithstanding that Jones was a much more suitable appointment because I was under pressure to do so from Hawatt and Azzi? ---I was told by Azzi that she would never get the job until hell froze over. My words not his, right. So she was out of the equation. If they'd shown the slightest interest in her I would have offered the job to her.

THE COMMISSIONER: So - - -

MR BUCHANAN: Doesn't that mean that's your explanation for not  
20 making a merit-based appointment?---Oh, look, you can construe it like that if you wish, I can't prevent you doing that, but that's not how it was, and as I said, if you were in my position back then you'd understand, it was a very volatile period of time and I was under enormous pressure. Whether it was self-generated or not, I don't know, but I felt the pressure more than I ever had in my 30-odd years at Canterbury.

And that pressure came from Azzi and to a lesser extent, Hawatt, as I understand your evidence?---Yes, yes.

30 In particular Azzi saying that he wouldn't accept a woman or a greenie. ---Yes.

Or someone from Leichhardt.---Yes.

THE COMMISSIONER: So the most meritorious candidate, because of what Mr Azzi said to you, meant that in a sense she was - - -?---She couldn't get the job. She had no chance of getting the job. Because even if I'd gone the other route and just appointed her without further consultation with council they would have made her life hell on earth and they would have  
40 made my life hell on earth probably, or attempt to, so I thought, no, I'll put the report up to council. That's what I was going to do and recommend an appointment. Now, events overtook us and that didn't happen, but that's what I would have done, and had there been a clear signal, a green light, I would have recommended Karen Jones.

But given her strong track record in changed management, transforming customer service approach at Leichhardt, deep experience in people

management, she might have been appointed, she might have been absolutely fantastic.---Yes, yes.

10 But you weren't willing to take that punt?---I wasn't ready to take the risk. And not with her, because, you know, she, she was somebody who was moving up in the sector, she had experience, she had a future in local government, I believe now she's got a much more senior role with the Department of Planning, and that's, and I'm very pleased for her, she deserves that, and, and it was a disservice to council, Canterbury Council, that we didn't appoint her, but the circumstances at the time were such that it couldn't happen. I regret that, but that's how it is.

20 MR BUCHANAN: Can I take you back to the draft code of conduct complaint, please, volume 4, page 117 at page 118. Item 9 on that page reads, "The general manager approximately three days later advised Councillor Azzi and Councillor Hawatt by telephone and separately that due to further information obtained by the general manager, that Mr Manoski was not suitable for the position and that the general manager will not offer him the position of director of planning. As the general manager had advised Councillor Hawatt and Councillor Azzi that the appointment of any employee is his decision and his alone, Councillor Azzi and Councillor Hawatt accepted the general manager's decision and no further action was taken." I'm not asking you about that last, or rather second sentence there, just the first sentence. I just want to ascertain from you, is it correct that about three days after a meeting with Azzi and Hawatt in which there was discussions about the candidates, you indicated that as a result of further information Manoski was not suitable for the position?---Look, that's possible too. I don't recall it precisely but I did receive one negative comment about Simon from within the department, I don't know who it was now, it doesn't matter, but there, there, there was a little bit of a question mark over him and but I still would have, I still would have been comfortable with Manoski had Karen Jones not, not been appointed.

30 Now, excuse me, can I take you to page 251 back in volume 3, please. This is text messages extracted from Mr Hawatt's mobile phone.

THE COMMISSIONER: Sorry, which page again?

40 MR BUCHANAN: I'm sorry, 251.

THE COMMISSIONER: Thank you.

MR BUCHANAN: And you can see there, there are three messages, each of them on the morning of 3 December, 2014. So we're getting closer to the date on which you sent the letter of appointment.---Yes, yes.

The first two you don't need to wonder about, worry about too much, but if you can go to item 3, it's at 10.02am where Mr Stavis says in his SMS to Mr

Hawatt, "Okay. Please let me know what happens after you guys speak with him."---Yeah.

That can be construed as indicating an understanding on the part of Stavis that Hawatt and Azzi were going to speak with you - - -?---Yes.

- - - about the appointment of the director of city planning.---Yes.

10 After 10 o'clock on the morning of 3 December, 2014, did you meet with them to discuss - - -?---I don't recall, but it would have been more likely to be a telephone call. Hawatt didn't come in much.

Did you have telephone calls with both men at the other end?---It's possible, but I don't recall and I, I don't know whether the records show that. They possibly do, the extraction reports. But it would have just been, it could have been innocent question, you know, "How are you going?" Obviously Spiro was getting a bit anxious. This is when? The 3<sup>rd</sup> of - - -

20 THE COMMISSIONER: December.---3<sup>rd</sup> of December. Yeah, there were delays, but those delays were, were reasonable. Had to do certain things to, to set it all up. I think he was just, just a little bit of a worrywart.

MR BUCHANAN: You're talking about Stavis?---Stavis, yeah.

That's not what I'm focusing on. What I'm focusing on is the third message, "Please let me know what happens after you guys speak with him." "You guys speak with him," those - - -?---Yeah. Meaning me, yeah.

30 - - - those words.---Yeah. Well, either they might have told him call me or contact me somehow or other.

What happened in that contact?---I don't recall the conversation. I don't know.

40 But can we infer from the evidence you gave earlier this afternoon that what is likely to have occurred is you being pressured to appoint Stavis to the job?---Well, in deference to them, because I don't want to accuse them of something they're not guilty of, but maybe they just rang to find generally where we were at with the process, and maybe I told them. It could have been, it could be that innocent. But, look, there's no doubt there was, there was some support for Stavis all along, from the get-go, but whether that particular conversation constituted pressure on me, I can't tell you, I'm sorry, Mr Buchanan.

Can I draw your attention to something that's in the first message, still on page 251, the one sent to Hawatt by Stavis at 9.18am. "Hi, Michael. I didn't sleep last night thinking about all of this. I really, really want this job but I'm okay to compromise as discussed." Let's pause there. That sounds

like he gets part of what he wants, namely a job, not necessarily the director's job.---No, but that, that could have been, that could relate to what Azzi said - - -

Precisely.--- - - - finding him a job.

10 That's what I'm asking is, is it the case, then, that Azzi told you at a meeting or a telephone conversation on 3 December, 2014 that if you didn't appoint Stavits you had to give him a job nevertheless?---Yeah, and I said that won't happen. There's no vacancies.

THE COMMISSIONER: Just trying to work out when that might have occurred in that sequence.---I can't recall, but I do remember the, I do remember Azzi saying that.

MR BUCHANAN: Before you appointed Mr Stavits - - -?---Yes, it must have been.

20 - - - on 8 December.---It must have been because why are they talking about a compromise some days before I offered him the job? They must have been having their own discussions. But I wouldn't have been party to putting somebody on and creating a job for somebody. It wasn't going to happen.

30 They had their own discussions, but as you can see, what was being foreshadowed was a discussion with you.---Yes. Which they're entitled to do, but I don't know what I would have said. The other thing is, of course, that they, now I remember, it's coming back, Azzi said, "Well, get rid of that silly woman," meaning a woman by the name of Gill Dawson who was our - what was she, now? I think she was the manager of strategic planning. I'm not sure about that, so don't quote me. And I said, "That's not going to happen, Pierre. She's doing a good job for us."

Was that a suggestion made in the context of you finding a job for Stavits? ---Yes. Yes. Get rid of her, then. Make a vacancy.

40 THE COMMISSIONER: And was that discussion in person?---No, I think it was over the phone, but he may have said it more than once. Pierre had a habit of that.

MR BUCHANAN: Can I take you back to the draft code of conduct complaint created on 5 January, 2015, volume 4, page 118. Can we have a look, please, at items 10 and 11 in this chronology. And again what I'm going to be asking is, is this correct? Firstly item 10, "Approximately two days later, Councillor Azzi and Councillor Hawatt met with the general manager to discuss the next suitable candidate of the three shortlisted, as detailed in point 5. Councillor Azzi and Councillor Hawatt indicated to the general manager that, in their opinion, the next most suitable and qualified

person was Mr Spiro Stavis.---Well, look, they may have said that. I, the only people that I said earlier about this, I don't know what brain explosion whoever wrote this had at the time, but I doubt the accuracy of some of these comments. I think it was prepared to suit their particular line.

10 That might be so and that might be an explanation if there is part of it that's slanted or wrong, but what we're trying to do is just ascertain, was there a meeting that you had around 4 December, perhaps towards the end of the day, with Councillor Azzi and Councillor Hawatt in which they pressed for the appointment of Spiro Stavis?---I don't recall that meeting. I can't say anything more than that. It may have happened.

But you have told us you were under pressure from them to appoint him.  
---Yes, yes.

So, it wouldn't be inconsistent - - -?---That wouldn't be inconsistent with the, with the - - -

20 - - - that the vehicle for that pressure would have been a meeting.---it wouldn't have been inconsistent with their modus operandi, no.

Now, can I just take you to – there is some evidence you gave on 18 October, when we were last here, page 4961, where you told the Commission that after the interviews Pierre Azzi and Michael Hawatt “didn't push that hard for Stavis, in fact they didn't push at all”.---No, that's, that's as I recall it, the best of my recollection. The only thing I can remember from that day is, “We don't want the woman.”

30 THE COMMISSIONER: Sorry, that day, being?--- The interviews day. “We're not having a greenie lefty here.”

MR BUCHANAN: I see. So after the interviews, unless you might have been thinking of the debriefing as it were, on the part of the panel?---Yes.

That occasion?---Yes.

And on that occasion are you saying that they didn't press terribly hard for the appointment of Stavis?---No. No, it surprised me, actually.

40 I see, thank you.---I expected them to be much more strident.

Excuse me a moment.

THE COMMISSIONER: Mr Buchanan, we might have a five-minute back-stretching break.---Yeah, that's a good idea.

MR BUCHANAN: Thank you, Commissioner.

THE WITNESS: Thank you.

THE COMMISSIONER: All right. We'll just adjourn for five minutes.

**SHORT ADJOURNMENT**

**[3.22pm]**

10 MR BUCHANAN: Mr Montague, could I take you back, please, to volume 4, page 118 in Exhibit 52, which is the chronology of events in the draft code of conduct complaint.---Yes.

And just take you to, if I can ask you to review items 10, 11, 12 and 13 on that page. So I've taken you to item 10 and 11, but I'd ask you to read that together with 12 and 13, which is to the effect that there was a meeting that you had with Azzi and Hawatt to discuss the next suitable candidate, that they indicated to you the most suitable and qualified person was Mr Stavis. Item 12, "The general manager indicated his preference was for Karen Jones." Item 13, "After further discussions the general manager indicated  
20 that he intended to hire Mr Spiro Stavis to the role of director of planning."  
---Mmm.

Now, "After further discussions," is an expression that could mean after further discussions on that occasion or it could mean after discussions further to that meeting.---Yeah, I don't know which it is, it's hard to say.

Was there a meeting or an occasion when you had contact with Azzi and Hawatt in which you were saying your preference was for Jones, they were saying their preference was for Stavis?---Not, I don't recall them being as  
30 open as that and I do recall Azzi saying that he liked Manoski.

And the way this is expressed makes it look as if they indicated to you, over what period of time is uncertain, they indicated to you their preference was for Stavis, you indicated your preference was for Jones, a bit more discussion, you changed your mind.---A bit more - - -

A bit more discussion with them.---Yeah, well, look, I don't know. As I said before, I don't know who prepared this. It might just be a thought  
40 bubble. I don't know. I, I, I don't.

But you have said that they were pressuring you to appoint Stavis?---They were pressuring me to find him a job, yes.

No, they were pressuring you to appoint Stavis and at some stage you indicated some diffidence and they said, "Well, if you don't appoint him you have to give him a job."---Yes, yes, I have to find him a job. But the emphasis was on find him a job.

At the end of the day though, what you did was what they wanted.  
---Well, it felt better - - -

What they said.---It felt better in the end, you know, to stop doing it,  
because it was - - -

As against hitting your head against a brick wall you mean?---Exactly. It  
was really - - -

10 Correct?---Yeah. It felt a lot better when I stopped doing that.

Now, can I take you, please, to volume 3, page 253. This is SMSs extracted  
from Mr Hawatt's mobile phone. Messages are on 4 December, 2014, you  
know that's the day that you did issue the letter of appointment to Mr Stavis.  
---Ah, sorry.

And Mr Stavis says to Mr Hawatt at 10.22pm on 4 December, "Hi, Mike," –  
I'm sorry, my mistake.---It was 8 December I offered him the job.

20 Correct. Correct, you're right, Mr Montague. At 10.22pm on 4 December,  
Mr Stavis said to Mr Hawatt, "Hi, Mike. Just so you know, he rang me  
before your meeting and pretty much said I have it. Bechara confirmed  
shortly thereafter. Call if you want."---Yep.

Which is consistent with Mr Stavis thinking that you were having a meeting  
with Hawatt and Azzi about who to appoint.---Yeah.

30 And that apparently, in Mr Stavis's mind anyway, before you even met him,  
met them, you rang Mr Stavis to indicate that he had the job.---Yeah, it's  
possible. I, I don't recall that sequence of events, but that seems to indicate  
that a meeting was to take place, yes. Can't disagree with that.

Now, can I take you to the next line, the next sentence in that text message.  
"Bechara confirmed shortly thereafter." That means that if it's true, and  
there's no reason to think it wouldn't have been, that you had had a  
conversation with Bechara Khouri in which you had told him of your  
intention to appoint Mr Stavis.---That's possible. Yeah.

40 That does indicate that you were taking him into your confidence as to your  
decision making in relation to this position.---Again, yeah, but again it was  
to just get him off my back.

Bechara?---Yeah. I mean, they kept, kept ringing - - -

He was on your back?--- - - - all the, yeah, ring, ring, ring. And, you know,  
it's just tiresome.

In what way was he on your back? What was he - - -?---Well, just to find out what was going on.

And did you ever ask, “Why do you want to know?”---No.

Why did you think he wanted to know?---I, I think he wanted to be the bearer of good tidings. I think he saw himself as being the kingmaker.

10 That suggests that you understood at the time that Bechara Khouri was deeply involved in the process of selecting a person to appoint to that position, doesn't it?---He could, he could have been in relation to the councillors, but not to me, because of those meetings that were held, it seems, at various times that I wasn't aware of. Maybe he was just trying to put his, his own weights up. I don't know.

20 You were certainly providing him with the material to use, if that was his motive, to big-note himself.---Well, no, I might have said, look, at this stage – I don't know what I said, but I might have said to him, look, at this stage Spiro's looking okay. That's it. Throwaway line. Go away. And I don't know what he would have, how he would have interpreted that or what he, who he passed that on to, but he certainly was very interested.

30 What was Bechara's interest, as you understood it, in the whole topic of the appointment of a DCP?---Look, I honestly think, because he never approached me directly about anything, really, you know, applications and stuff. He'd always say, if you want to put an application in, do so. Get yourself a good architect, get yourself a good planner, go through the process. He never, he never varied from that approach. Now, to answer your question – and now I've forgotten the question, sorry.

That's okay. What did you understand – and I'll add two words, add three words – at the time was Bechara's interest in the appointment of a DCP?---I thought he genuinely felt that he was helping me.

And in what way?---Well, because I had approached him way back to see if he knew anyone who might be interested in the role, I think he was just following through on that. Nothing more, nothing less.

40 You didn't think that he had a deeper interest?---Not really, no, because he, because he was powerless to influence anything. In the end, as I keep saying, any of those major applications had to go through council. Wouldn't matter what I said or what the planner said.

And thus his interest in the identity of the person filling the position of director of city planning who wrote the reports recommending determination of development applications?---Possibly. But I repeat, it wouldn't matter because when it gets to council they make the decision, and as things were, there were a group of seven people out of 10 who had the

influence. Now, it's highly likely that they would have recommended according to the officer's recommendation, but they may not. It would depend. You can't assume that. Now, I always felt that Stavis or anybody else in that role would report to the council without fear or favour. They would report as they saw fit. And I saw no, I saw no examples of where, where Spiro pulled his punches in that regard.

10 Did you not have any inkling of the nature and depth of the relationship between Khouri on the one hand and Azzi and Hawatt on the other hand?  
---I think that was a relationship that only grew after or about the time of the amalgamation, or just before. Prior to that, I don't think the relationship was that strong. I don't. I mean, Azzi had been on the council since 2012. Hawatt had been there a lot longer. He was the longest-serving councillor at that point. Now, I think that relationship with Azzi grew as we approached the amalgamations. That was in, well, everyone knew about it in 2015, but it happened, as you know, in May 2016.

20 See, I want to suggest to you that on the material before the Commission it would be open to the Commission to conclude that the relationship between Khouri on the one hand and Azzi and Hawatt on the other hand was quite close at an early stage in the period that we're investigating, such as, for example, late 2014, when the retirement, resignation of Mr Occhiuzzi occurred and the vacancy was created in the position of director of planning.---Yeah, look, Mr, Mr Buchanan, that's possible, but we're only talking a period of two years. It's hardly - - -

30 And the question is how would you not know that, given your friendship with him, given the extent of your contact with him?---He, he didn't confide in me in anything. I, I didn't know where he was, no, I didn't. He was in his car, driving around the area, he could have a meeting, and we knew he met with him at least once in my absence. I didn't expect to be invited to every meeting he had with every Tom, Dick and Harry around the place and, and I, don't, you know, I don't know that the relationship was that strong. At times he was quite critical of the way they behaved and the way they - - -

40 It is difficult to accept that you didn't understand that there was a close political, and perhaps social as well, relationship between Khouri and Azzi and Hawatt.---There wouldn't be a close relationship with, with Hawatt because Hawatt's on the other, in another party.

Well, that didn't stop Mr Azzi working with him regularly.---But that happened after 2012 when they got control of the council with, with - - -

It was happening in 2013.---Well, you say it was and it looked, looked like that.

You had told us about what occurred in October, 2013 in relation to the Residential Development Strategy.---Look, after, no, I just said after 2012. After 2012.

Mr Montague, you have told us what occurred in October, 2013 in relation to the Residential Development Strategy.---Yes.

10 It was plain that Hawatt and Azzi were working together to achieve particular outcomes at that time, wasn't it?---Yes. Whatever that outcome was, and I, and that's a mystery to me.

Excuse me a moment. Now, can I take you to the report you made to the Commissioner. If I can take you to volume 5, page 230. If I can – sorry. Excuse me a moment. Excuse me a moment. My mistake, page 254 and I should just make sure you see where we are. Page 253 first so that you can see the front page and then over the page. “Following protracted and extensive discussions amongst the panel members, the mayor and I relented and it was resolved that Mr Spiro Stavis be offered appointment for a limited period of 12 months.” First of all, did the mayor relent?---I can't  
20 answer for the mayor but I didn't say earlier, the mayor was prepared to go along with whatever I recommended.

Why did you relent?---Because I was tired. I was completely exhausted with the pressure and with the nonsense that was going on. I thought it was the line of least resistance. I know, I knew I couldn't get Karen Jones up. I didn't want our friend Manoski after that, so he was the only game left in town, so I thought, right, I'll give him a chance, he interviewed okay, I'll try him on for 12 months. That was my logic, because the place was in chaos, the planning division was not functioning very smoothly at that point, you  
30 know, they were jockeying for power down there, so I thought I, I had to stem this. So, I thought put him on, give him a go, see how he goes, I can always, I, I don't have to renew his contract in 12 months' time. And by and large, I think Brian Robson, the mayor, supported that view.

Excuse me a moment. Can I take you forward in time. You know that 8 December as you've corrected me was the date on which you issued the letter of employment to Mr Stavis?---Yes.

40 You had regrets after having issued the letter of employment about having decided to employ Mr Stavis?---Yes.

And you shared those with Mr Stewart, Mr Matthew Stewart, at a meeting at the Office of Local Government about the State Government's future reforms for New South Wales local government?---I remember having one meeting in there with, and Matt was present.

After the meeting?---Possibly but I don't recall it specifically.

And Mr Stewart has told the Commission in his statement – Exhibit 53 at page 11, paragraph 41 – that Mr Montague was expressing frustration that through his recruitment process for the director of planning that Councillors Hawatt and Azzi were favouring Mr Stavis and he did not favour Mr Stavis. He did not want to employ him as director of city planning.---That's true in the early stages, yeah. I can't remember when that meeting at the Office of Local Government was but that sounds right.

10 Well, Mr Montague, Mr Stewart says it was on 15 December, 2014.---2014. Sounds right.

Can I take you to another communication the next day on 16 December, volume 4, page 12. This is an email from you to Mr Belling at K&L Gates, the legal firm.---Yes.

You had retained them to advise you, is this right, in relation to the legalities of the employment of Mr Stavis?---Yes.

20 And whether a contract had been signed?---Yes, or whether, or whether I could safely withdraw the offer, yeah.

Whether you were in a binding contract situation?---Yes, yes. Offer and acceptance, yeah.

30 In this email you give him some background, Mr Belling that is, and then you say six lines down, “Against my advice it was decided to appoint Mr Spiro Stavis who is not in my opinion the best candidate.” Was that correct?---No, no, that's not right. I think I might have, you know, been having a bad day. I don't know what I meant by against my advice but certainly it was decided to appoint Stavis and I think I made that decision. I can't implicate anybody else in it but I don't think that's strictly correct, no. But, you know, the import of the email is right. I wanted advice on whether I could safely withdraw the offer.

And then the day after that, if I could take you to an SMS from you to Mr Hawatt - - -

THE COMMISSIONER: Sorry, while we're still on that.

40 MR BUCHANAN: I'm sorry, Commissioner.

THE COMMISSIONER: Where you say, “This afternoon after discussions with the mayor and one other councillor,” who was the other - - -?---Yes, I knew you were going to ask that. I can't remember. I just read that myself. I thought who was I talking about. It's got to be, it's got to be one of the two of them. It has to be because no one else was interested. No one else was taking any active interest in the appointment and that perplexes me.

MR BUCHANAN: Was there a further meeting with Mr Hawatt?---He would have gone, he would have gone through the roof but I don't understand that. The mayor and one other councillor. It has to be Hawatt, has to be. Azzi wouldn't just, he wouldn't have sat still for that.

10 THE COMMISSIONER: Do you have a recollection or are you just trying to reconstruct it at the moment?---No, I, I, honestly, I am, I am trying to reconstruct. I don't know and I don't know why I put it in there in that form. I remember, well, I obviously would discuss something as important as this with the mayor, that just goes without saying, but who the other councillor was I can only get it, boil it down to the two of them and of those two I'd say Hawatt is the most likely because he was a little bit more I suppose calm about things.

20 MR BUCHANAN: And was this after you had received these fresh references that Ms Carpenter provided?---I'm trying to piece that together, whether it, it must have been, and also I got the feedback from the staff about the same time and that's what really got me thinking, well, I've made a mistake here. I'll have to withdraw that offer.

30 If I could ask you to have a look at volume 4, page 18. Sorry, I should take you back to page 17 just to give you context. Again, messages extracted from Mr Hawatt's mobile phone on 17 December, at 10.55am, an email to you from Mr Hawatt, "Hi Jim. Pierre does not want to discuss the director position any further. It's now up to you." That indicates that there had been some intimation by you of a concern that you should not go through with the appointment of Mr Stavis to Mr Azzi, as well as Mr Hawatt.---Well, by that stage, and it's coming back a little bit now, by that stage Azzi had signed off and he was fed up and he was very excitable and, as I said earlier, and that's why I believe it was Hawatt who I discussed it with because he's, he's easier to talk to than Hawatt, than Azzi, when Azzi's in a mood. So, yes, I, I think, I think that's right. He, well, even Hawatt here, he was very disparaging of the council and the whole thing, you can see from the wording he's used. They were just fed up because they didn't get their way, I think.

40 Now, briefly, before going over to the next page, Mr Hawatt went on after saying something about instability, "The ones we are having big issues with are back in control." Who, at the time, did you understand that to be a reference to?---That's a good question.

Did he suspect – sorry. Did you understand that he suspected that you were working together with Mayor Robson?---No, I don't think the mayor was involved. I think, I think he was referring to the staff. You see, there were three or four senior people who were directing traffic in the planning division who'd been there for a long time. I think he was referring to them, they're back in control.

I understand. Thank you. Now, then if I can take you to page 18, item 3 on that page, looking at the left-hand side, is a text from you to Mr Hawatt at 11.07am on 17 December, "Michael, our reputation is more at risk if the wrong person is appointed. I never wanted Spiro in the first place and I allowed myself to be compromised. It won't happen again."---Yeah. Well, I was, I guess what I trying to do there was explain myself. What I meant by compromise was that we didn't get the best outcome. Maybe I wasn't strong enough, maybe I wasn't, I didn't state my position as clearly as I could have, but I certainly felt that I, that the wrong appointment was being made. He, everyone seizes on that word "compromised", and I, I don't really know what I meant by that in that context. It's just a word after all.

Well, the context is the three words that precede it, "myself to be compromised", which the ordinary meaning of which would be that you were being required or pressured to do something that you didn't think was the right thing to do.---Yes. I, I think that's a fair statement but, and that's how it was. That's how, that's at least how I felt it was. Now, whether that's what they meant, I, I don't know and I don't want to be too disparaging of them. I think I, a lot of this problem I created for myself by trying to second-guess people, by trying to read into their words what they were meaning. The communication with them verbally had almost broken down completely, particularly with Azzi, and I, and I was out there on a limb and people were sawing it off behind me. It was a very lonely place to be at that stage.

What I want to suggest to you is that the language you used there is consistent with the evidence that you've given here this afternoon that you made the appointment of Mr Stavis because you were pressured by Hawatt and Azzi to do so, and it was against your better judgement.---Well - - -

You didn't think Stavis was the best person for the job.---I didn't want him at first, I agree, and that, but it wasn't just the pressure, it was the impact that was having on the functioning of the organisation, it was dysfunctional, becoming dysfunctional, certainly it was already politically, but administratively it wasn't going too well either, and I was concerned about the impact on staff and I was concerned about impact on other stakeholders who had dealings with the council, were they getting treated fairly, I don't know, so I thought, look, just stop the bleeding, offer him a job for 12 months and get on with it. That, that's probably - - -

That wasn't the right thing to do, was it?---No. As it turns out, no, but it's easy with hindsight to look back.

Well, no, at the time it wasn't the right thing to do. You weren't making the decision to appoint Mr Stavis to the job of director of planning because he was the most meritorious candidate. You were making it because of pressures that were being placed on your by those two councillors.---Well, no, I wouldn't go that far. I think, I think the pressure was a part of it, but

certainly I felt, given the interview, as I said earlier, that he could do the job and he was worth a try, I do. Sorry, Mr Buchanan, that doesn't please you, but that's the truth. I, I felt that he could do the job based on the interview and based on my conversation with him at Giorgios.

But we've got all this evidence, your contemporaneous expression of opinion to Matthew Stewart that - - -?---Yeah, but when was that, how is - - -

10 That's 15 December, 2014, which is two days before this.---Mmm.

This text, that you were expressing frustration, that Hawatt and Azzi were favouring Stavis and you didn't favour Stavis and you didn't want to employ him as director of planning.---No, but in the end I realised that it was the lesser of two evils and it was a compromise, yes, on my part. I don't deny that.

Excuse me a moment. Now, you sent a memo to council, sorry, you wrote a memo to council on 23 December, 2014, at page 46 to 48 of volume 4, and  
20 the sixth full paragraph, according to my eyes, yes - - -?---Starting with the words "as councillors"?

No, starting with the words, "Mr Stavis was not." "Mr Stavis was not the most experienced person interviewed. He has not held a director's position in the past." This is page 47.---No, I'm on 46.

My mistake, I'm sorry.---47?

Can I take you to page 47, just a bit above the middle of the page.---Yes,  
30 yes, got that.

"Mr Stavis was not the most experienced person interviewed. He has not held a director's position in the past and has limited experience in senior management roles and organisational change. His experience lies specifically in project management and in developing responses to individual development proposals." And then you went on to talk about why the short contract was offered.---Well, that's consistent with what I said earlier. I don't see any inconsistency there.

40 And it was true, the opinion that you expressed there in the memo to council that there were all those reasons why he shouldn't have been appointed. ---Yes.

Excuse me a moment. From all of this it would be reasonable to conclude firstly that you, in December 2014, appointed Mr Stavis because of the pressure that Azzi and Hawatt had put you under to appoint him, rather than one of the better-qualified candidates.---Not entirely, but that's, that was an element, yes, but not entirely.

It would be reasonable to conclude that you, that appointing Stavis because of the pressure you were put under by those two men explains why you appointed him in all the circumstances, that he didn't meet your criteria for the position, he had what I put to you as inadequate references and in circumstances where you'd received referees' reports for others candidates which were much more satisfactory. The evidence, doesn't it, leads to the conclusion that you appointed Mr Stavis for your own benefit, rather than because the appointment was in the public interest.---What do you mean for my own benefit?

To stop beating your head against a brick wall.---Yeah, but that, that had - - -

It was less painful.---Well, saying for my own benefit has a certain connotation which I don't think is appropriate.

Made your life easier.---Well, it also improved the performance of the organisation. It gave certainty to the staff that there was now a director in charge.

It made your life easier.---Not just my life, everybody.

You appointed him to safeguard your own position?

MR ANDRONOS: Commissioner, the way that question is expressed has the potential to be unfair in that it appears as a matter of language to be premised on the assumption that there is a single reason for the decision to be made. If my friend is putting that as the only reason for the decision, that should be expressed. If it's being put as one of a number of reasons, that should be expressed. It simply has the potential to be unfair and the answer could be misleading simply because of the terms in which it is put. Certainly a question like that can be put. It just needs to be clarified.

MR BUCHANAN: I'll reframe the question. You appointed Mr Stavis – sorry, I withdraw that. If it hadn't been for the pressure that you'd received from Hawatt and Azzi, you would not have appointed Stavis?---If it hadn't been for the formation of the panel, the likelihood is I would not have offered the role to Stavis, correct.

But I'm asking you to take into account the evidence that you've given to us that you appointed Stavis because of the pressure that you were under from Azzi and Hawatt, and that you didn't think he was the most suitable person for the job.---No, but I qualified that by saying that often people don't come up well at interview, they don't have on paper what you're looking for, but that doesn't mean they can't perform very satisfactorily. And in this case, after he started with the council he did a pretty good job, a very good job in fact.

Did you think that if you didn't appoint Stavis your position would be in jeopardy?---I didn't know that until 24 December, 2014.

No, but you've told us about the political pressures that you were under.  
---Yes. Yeah. But they never said they were going to sack me if I didn't give him the job.

10 No, I'm asking you about what your thought processes were at that time, as at around early December 2014.---'14, yeah.

You were concerned, weren't you, that your position would be in jeopardy if you did not appoint Stavis.---No, no, not really, because I was looking at retirement not far down the track, and it wasn't long after that that I penned a notice of resignation anyway, which never saw the light of day. But you've got to look at it in the context of what was happening then, the absolute, you know, poisonous atmosphere in the place, politically I mean. So, look, it was a factor but I, I, you know, I'd already put 50 years in. It didn't really matter to me one way or the other. And I didn't want the top  
20 job in the new council. I knew the amalgamations were coming. I made, I made an error in judgement in appointing the panel, and what flowed from that is, is what caused the grief. I, I put him on in the end to steady the ship.

You wanted to hang in there as the CEO until you'd racked up 50 years in local government, didn't you?---No, no, it wasn't a factor.

You had - - ?---I wanted to stay there till the termination of the contract which was in April, '17.

30 You wanted to, you had expressed opinions, didn't you, to people that you wanted to stay at council until August 2015, when you would have had 50 years up?---I could have, but April '17 was the more important date because that was the termination of the contract. That's when the contract, my contract would have expired. Didn't get there.

Hadn't there in August 2014 been a council resolution approving an extension of that contract?---No, I don't believe so. The contract was, the contract was still on foot to 2017, April 2017.

40 Oh, I see. Sorry, you said April 2017 did you?---'17.

I misheard you.---Yeah.

I apologise. Did you appoint Mr Stavis for the benefit of Mr Hawatt and Mr Azzi?---No, no. They had their own agenda. I don't know what they were up to. I mean, I couldn't control them. They were the council. I was hopeful that if they were, if somebody was appointed to that role that they could get, at least get along with and be comfortable with that things might

settle down a bit and the relationship between the mayor and the other councillors could improve. Yes, maybe that was a vain hope but that was one of the things I was thinking of and I knew the election, the next election was not that far away anyway so, you know, it's, I made decisions as I said at the time that I thought were right in the circumstances. It turned out to be not so right, some of them.

Commissioner, I would apply to vary a non-publication order made in respect of this witness's evidence given on 6 July, 2017 in the transcript commencing at page 971, line 35 and going through to page 972, line 29.

THE COMMISSIONER: Could you just excuse me.

MR BUCHANAN: Commissioner, if it will assist, I have a copy of those two pages with those lines marked.

THE COMMISSIONER: That would help. Thank you. So it was line 35 on page 971?

MR BUCHANAN: Commencing line 35 going through to line 29.

THE COMMISSIONER: Right. The non-publication order made on 6 July, 2017 in respect of the evidence of this witness will be varied to exclude the evidence given and recorded at the transcript page 971 commencing at line 35 and concluding at page 972, line 29.

**VARIATION OF SUPPRESSION ORDER: NON-PUBLICATION ORDER MADE ON 6 JULY, 2017 IN RESPECT OF THE EVIDENCE OF THIS WITNESS WILL BE VARIED TO EXCLUDE THE EVIDENCE GIVEN AND RECORDED AT THE TRANSCRIPT PAGE 971 COMMENCING AT LINE 35 AND CONCLUDING AT PAGE 972, LINE 29.**

MR BUCHANAN: Now, if we could pull up on the screen, please, volume 30, page 259. I'm sorry, volume 3, page 259. I'm going to read to you from the transcript of evidence that you gave to the Commission on 6 July, 2017, Mr Montague. If you could listen to what I read out to you. And we've put on the screen the letter of offer of employment to Mr Stavis because that's the document that is being discussed in this evidence. ---Okay.

Question, "In terms of when you offered Mr Stavis the position, the written offer I think was made on 8 December, 2014." Answer, "Sounds about right." Question, "Yeah, so you can see, just for your benefit, Mr Montague, if you go to page," and it says here 301 but in fact it's 259 now, volume, I interpolate. Answer, "301." Question, "301, yes. You'll see

there's a letter from you to Mr Stavis." Answer, "Yeah, it's all coming rushing back now." Question, "Is it?" Answer, "When you see it in print." Question, "Yes, that's right. So that's 301 to 302, your letter, that's the 8<sup>th</sup>?" Answer, "Yeah, yeah." Question, "And he signed it, he's signed it on the 9<sup>th</sup>?" Answer, "Yes, yeah." Question, "Do you recall any further discussions between the members of the panel before you took that course?" Answer, "No, no, because as I said before, it was my call. I may have mentioned to the mayor that I was going to offer the role to Spiro. He wouldn't have objected because he made it clear to me he'd support  
10 whatever I decided. I don't recall any further discussions with, given the time of the year too, I don't know that there were any further discussions with any of the councillors. I did send out some memos at one stage but I can't remember exactly when now, but I certainly didn't have any further discussions as far as I recall with Stavis, with Hawatt and Azzi." Question, "All right. So that's between the interview and your, and your making the offer?" Answer, "Yes." Question, "All right." Answer, "Yeah, that would be right." Question, "At the time that you decided to make the offer it was your view, was it, that Mr Stavis had the greatest merit to be selected?" Answer, "Yes. See, I know what the Act says about meritorious  
20 appointments but there's some soft skills there that - - -" Question, "Yes." Answer, "- - - I don't go into, and I said he interviewed very well, he did interview very well, I did, I had an understanding of his role as a consultant for about 15 years in his own business and yeah, I concluded that he was on balance, given the dynamic at Canterbury, the politics of the place and what we were looking for in terms of reform, he was, he was probably the best candidate." Now, you heard me read the transcript of that evidence?  
---Mmm.

30 That evidence was untrue, wasn't it?---What evidence? What part particularly?

Question, "Do you recall any further discussions between members of the panel before you took that course?" Answer, "No, no, because as I said before, it was my call. I may have mentioned to the mayor that I was going to offer the role to Spiro. He wouldn't have objected because he made it clear to me he'd support whatever I decided. I don't recall any further discussions with, given the time of the year too, I don't know that there were any further discussions with an of the councillors. I did send out some memos at one stage but I can't remember exactly when now, but I certainly  
40 didn't have any further discussions as far as I can recall with Stavis, with Hawatt and Azzi." Answer, I'm sorry, question, "All right. So that's between the interview and your making the offer?" Answer, "Yes." ---Well that could be, that, I'm not sure now. That, that could have been a wrong statement. I mean, maybe I did have a conversation on the phone with them, or one of them at least. I don't, I can't recall that now.

Well, you had conversations with Stavis.---Well, he was the successful candidate.

You had conversations with Hawatt and you had conversations with Azzi.  
---Well, that should, you're saying that. I, I can't recall that but it - - -

You gave evidence previously and today that you had those conversations.  
---Okay. Well, if I, if I gave evidence that effect, then it's right. I, I, I don't recall. I mean, I'm just - - -

10 Which means that the evidence that you gave on 6 July, 2017, to the Commission is wrong.---Not necessarily. I don't know what that evidence is. I, I can't see it.

Yes, you do. I have read it to you twice now. In relation to a period between the interview and your making the offer, you said, "I certainly didn't have any further discussions, as far as I can recall, with Stavis, with Hawatt and Azzi."---Well, that's what I would have thought at the time.

20 That was false.---Well, no, I'm not going to say it false. It was, it was said truthfully. For heaven's sake. And was that the compulsory examination?

I'm going to reread another question that you were asked. "At the time that you decided to make the offer, it was your view, was it, that Mr Stavis had the greatest merit to be selected?" Answer, "Yes."---On balance. I think I used the words "on balance", that's right.

You talked about some soft skills there.---That's right.

30 Why did you say, "Yes," when plainly the burden of your evidence has been that he did not have the greatest merit to be selected?---Maybe I should have just simply said, "I don't know, I don't recall." I was trying to be truthful with the Commission. I, I, I may have misstated something.

You tried to mislead the Commission, didn't you?---No. No, I, I - - -

But you gave evidence which did mislead, didn't you?---I deny that, I deny that emphatically. I'm not in the business of trying to mislead anybody.

40 You said, and I continue your answer that you gave on 6 July, 2017, "I concluded that he was, on balance, given the dynamic at Canterbury, the politics of the place and what we were looking for in terms of reform, he was, he was probably the best candidate."---That doesn't, that doesn't differ from what I said earlier.

Can I take you to evidence that you gave here on 18 October, 2018. Page 4987 of the transcript, commencing at line 28. Question, "And the reason you'd appointed him in the first place was because you were pressured to do so by Hawatt and Azzi, wasn't it?" Answer, "No, not at all." Question, "Not at all?" Answer, "Not in the sense of pressure being holding a gun at

my head, do it or else, nothing like that. He, Azzi did say, 'If he doesn't get the job, find him another job,' and I said to him, 'Not going to happen'".  
---That's exactly what I said earlier. That's exactly what I said.

You have made it clear to the Commission today that you appointed Mr Stavis in the first place because you were pressured to do so by Hawatt and Azzi.---I said, and I repeat, that was part of the equation but it wasn't all of the equation.

10 That's not the answer you gave.---Oh, for heaven's sake.

"No, not at all," that was false evidence, wasn't it?---Not intentionally false but if that's how you want to construe it, fine. I can't change that. I, I, I've said repeatedly, I'm doing my best to answer the questions as honestly as I can and these, these big breaks between hearings, it's not helping, I, I don't have that good a memory.

Your memory has improved with the effluxion of time, is that what you're saying to us?---No, I'm not saying that at all. If anything my memory has  
20 deteriorated with the effluxion of time. Generally speaking, I mean, not specifically in relation to these proceedings.

Excuse me a moment. Now, if I can just, to keep you with the documents in front of you, take you to first of all a letter that Ms Carpenter sent you at 10.36am on 12 December, which is page, pages 1 to 3 in volume 4. And at page 2 is the letter that Ms Carpenter sent you – this is 12 December, 2014, if I could just remind you – in which Ms Carpenter drew your attention to what she described as "Mr Stavis's significant lack of experience in  
30 managing large teams," I'm looking at the second paragraph, "in implementing change initiatives, in implementing innovative improvement processes." She said, "I was subsequently surprised and concerned when you indicated that councillors on the interview panel had insisted that Spiro was to be a shortlisted candidate." A bit further down the page, "I am deeply dismayed that councillors have, in my view, unduly influenced the recruitment process and have appointed Mr Stavis to the role of director (planning). Under any circumstances, this cannot be considered a merit-based appointment." And then going over the page she had some words to say about the interview process and then went on to say, "My concern has been heightened by recent conversations with others that expressed  
40 significant reservations about Mr Stavis's personal integrity," and then went on at the end of the next paragraph to say she was of the view that "Other candidates demonstrated greater, skills, experience and behaviours than Stavis. I share your concern in this matter." And you responded on 15 December, the email at page 4 on volume 4, attaching a letter in which you thanked her for that letter, said her comments were very concerning and call into question whether Mr Stavis has the experience and background to successfully undertake such a senior role within our organisation, and that you were, sorry, you were particularly concerned about her comments

relating to the influence exerted by councillors in the recruitment process. Now, you then went on to say what you would do. There was nothing in that letter which quarrelled with what she observed or the opinions that she expressed. You didn't write back and say, "Oh, you've got the wrong end of the stick there," or anything like that, did you?---No.

And that's because you, when reading it, thought that everything she said was write, didn't you?---No, I - - -

10 Why didn't you then take up with her the aspects of her letter with which you disagreed?---Well, because I didn't. I didn't, I didn't.

Instead you reply and say that her comments are very concerning.---Yes.

Call into question whether he has the experience and background to undertake the job, and was particularly concerned about her comments relating to the influence exerted by councillors and proposed to do something about it. That suggests that you agreed with everything that she said.---Not necessarily, but I agreed with the spirit of what she said. There  
20 was an issue and that's what led to the withdrawal of the offer of employment. Of course.

So is it fair to say that Ms Carpenter's letter contributed to the - - -?---Yes.

- - - decision to withdraw?---Yes.

Well, in that case can I ask you, what was there in Ms Carpenter's letter that was news to you?---Well, it was the way - - -

30 You've known all along.---It was the way – no, I didn't know anything.

You knew all along that - - -?---It was the way it was expressed. The way she expressed it.

You knew all along that you had insisted that Spiro be a shortlisted candidate.---Yes.

I'm looking at the bottom of page 2, page 4.---Yeah, and she recommended him for interview. Don't forget that.

40

Mr Stavis, he wouldn't have been interviewed if you hadn't insisted that he be on the shortlist.---No, she recommended independently that he be interviewed. Somewhere in the papers - - -

I'm not going to take you to it. You're, I suggest, trying to hang your hat on her commending every single one of the candidates who got an interview to the council.---No, I'm not trying to hang my hat on anything. I'm saying that that letter I received from her did concern me and particularly when that

was corroborated by comments made by senior staff who'd been with us for quite a few years, they also expressed concerns about him.

What I'm asking you about is you already knew the facts that were stated by Ms Carpenter in this letter, for example, that you had indicated that Spiro was to be a shortlisted candidate?---Yes.

That councillors were on the interview panel?---Yes.

- 10 That councillors had influenced the recruitment process?---No, I don't remember saying that.

But it was the fact, wasn't it? You knew it was the fact?---Was it? They didn't, they didn't actually take, they didn't express any opinions during the interviews or at the conclusion of the interviews. Now, I said that earlier.

The recruitment process.---Yeah, the process. They didn't get involved in the recruitment process.

- 20 Can you have a look, could you just have a look at the last lines at the bottom of page 2 in this letter, "I am deeply dismayed that councillors have in my view unduly influenced the recruitment process." Leave aside her adjective unduly for the moment.---Yeah.

I'm simply asking you knew that the councillors had influenced the recruitment process didn't you?---How? How? How did they do that?

Is that an honest answer, Mr Montague?---Yes, it is. You've completely lost me.

- 30 You're trying to avoid coming to grips with the fact that you knew all of these things that she set out in her letter.---I don't know, no, some of them - - -

You already knew them.---No, I don't know how they're supposed to have interviewed, sorry, interfered with the recruitment process. The interview process is a different thing. They were there at my invitation. But the recruitment process, I don't know how they interfered with that.

- 40 Who else did you have meetings with - - -?---What do you mean?

- - - other than Mr Hawatt and Mr Azzi about who should be appointed and ultimately deciding that Mr Stavis should be appointed?---Appointed or interviewed? They're two different things entirely.

Mr Montague, we'll continue on. You then saw this cannot be considered a merit-based appointment. You knew that to be the case didn't you?---No. I wouldn't, I wouldn't accept that. That's her opinion.

As at 12 December, 2014 you didn't think it was a merit-based appointment, did you?---No.

You made the appointment so that you could get Hawatt and Azzi off your back so that you didn't have to beat your head against a brick wall?---Look, I - - -

So you knew that fact, didn't you?---No.

10

Going over the page. The interview process itself it was not robust. You knew that, didn't you?---Well, that's, they're her words, not mine.

And the main concern of councillors involved appearing to be whether candidates would follow the instructions from the general manager. You knew that to be a fact, didn't you?---Well, they expressed that, they asked that question in the interviews.

20

You - - -?---But again I don't know what, what connotation you can put on that.

You knew then that there had been expressions subsequently of significant reservations about Mr Stavis's, and it says here "personal integrity" but you know the character references that came when, sorry, the professional references that came from Ms Carpenter from Strathfield Council and Botany Council, don't you?

MR ANDRONOS: I object to that question.

30

THE WITNESS: I don't know what the man is talking about.

MR ANDRONOS: All these questions are directed to the state of this witness's knowledge as at 8 December. This makes clear that this is something which occurred subsequently as at the date of this letter.

MR BUCHANAN: Yes. As at 12 December you knew that there had been significant reservations expressed about Mr Stavis, didn't you?

40

MR ANDRONOS: Well, hang on, hang on, hang on, hang on. As I understand the gravamen of this line of questioning, it is all to the effect that nothing changed between the decision that was made by Mr Montague to hire Mr Stavis on 8 December and when he received this letter on the 12<sup>th</sup>. Now, what my friend has just done, obviously in the heat of the moment, he has elided from the questions dealing with what was known as at the 8<sup>th</sup> into what was known at the 12<sup>th</sup>, which is a completely different question and not the subject of the line of questioning that he has been pursuing with this witness. Now, that is an impermissible slide from one question to another directed to a different time and to a different state of knowledge.

THE COMMISSIONER: You're referring to the subsequent references obtained by Ms Carpenter or the subsequent information she obtained.

MR ANDRONOS: As I understand, as I understand the question, and I might - - -

THE COMMISSIONER: No, no, no. Is that what you're referring to?

10 MR ANDRONOS: The subsequent, yes, and also this letter, because as I understand the question, and I might have this wrong, I might have a note which is - - -

MR BUCHANAN: No, you don't have it wrong.

MR ANDRONOS: The original questioning is that as at 8 December, Mr Montague knew everything he needed to know to form a particular view, but that includes material in this letter which can only have become known to him after the 8<sup>th</sup>. Now, there are no doubt appropriate questions which  
20 are coming after but that particular question in my respectful submission is apt to mislead the witness and the Commission.

MR BUCHANAN: I withdraw the question.

You knew, looking at the third-last paragraph, that other candidates demonstrated greater skills and experience and behaviours than Mr Stavis?  
---I don't have this in front of me, by the way.

I'm sorry, this is page 3 of volume 4.

30 THE COMMISSIONER: We'll just get it up for you. Sorry, Mr Montague.

MR BUCHANAN: So we're looking at the third-last paragraph, at the end of it. "Other candidates demonstrated greater skills, experience and behaviours than Mr Stavis." Wait till I see it, I – this is from Judith Carpenter.

Yes. And what I've been putting to you is, with the exception of one matter that Mr Andronos has raised, and we'll come back to, you knew all of these  
40 facts by the time you received this letter on the 12<sup>th</sup>, didn't you, already knew them?---I might have been aware of them but that doesn't mean to say that I accepted her views about things. I mean the letter - - -

Well, the question, the question I'm coming to, you see, is why it was that you responded by saying, "Your comments are very concerning and call into question whether he has the experience and background to successfully undertake such a senior role within our organisation," as if it is a surprise to you.---It's the way she expressed it that concerned me and it was, it was

reinforcement for what I already heard, that there were, there were issues with his background and with his, I don't know about his integrity, I never heard that one before, but still, look, I wouldn't ignore advice like that, so I asked her to conduct further reference checks.

And you said, "I am particularly," sorry, I'm looking now at page 5, and I do note the time, Commissioner, I will finish in a moment.

THE COMMISSIONER: No, no, it's fine.

10

MR BUCHANAN: "I am particularly concerned about your comments relating to the influence exerted by councillors in the recruitment process." You knew all of those facts already - -?---Not about the - - -

- - - by the time you received that letter.---Not about the recruitment process. The interview, they were on the interview panel but they did not interfere in the recruitment process per se.

20 It is obvious from your evidence that they interfered in the recruitment process.---How did they, could you please explain to me how they interfered?

THE COMMISSIONER: Sorry, Mr Montague, when the terminology "Recruitment process," is used, what's your understanding of what it's referring, what you were referring to?---Well, that's things like preparing the advertisement and the, and the list of questions that are going to be asked, not about the actual interviews themselves, which is a different, different kettle of fish.

30 MR BUCHANAN: The recruitment process concluded on 4 December, didn't it?---(No Audible Reply)

THE COMMISSIONER: When the job was offered.---No, that was the 8<sup>th</sup>.

MR BUCHANAN: I'm sorry, thank you. The 8<sup>th</sup> of December.---Yeah, yeah.

I appreciate the correction.---No, the, the, the - - -

40 8 December. The interview process was conducted on 17 November. ---Please, please, please, please, just listen to me.---I am.

The recruitment process took a period of time, it concluded on 8 December. Correct?---The recruitment process?

Yes.---Yes.

Thank you. In that process Hawatt and Azzi tried to influence you and succeeded in influencing you, didn't they?---No. They, they tried, they may have tried but they didn't succeed necessarily. I made the decision based on the facts that were before me at the time, after the interviews were conducted, and my own discussions with Mr Stavis.

So what I'm trying to ascertain is, why did you in your letter of 15 December indicate in essence that her comments were a surprise to you?  
---Well, I don't know.

10

And that you were particularly concerned about these matters, when at the end of the day you knew them all before you opened that email with her letter attached to it.---I'd like, I'd like to see the paragraph you're referring to. It's still not up on the screen. But be that as it may, I, look, it's how people express themselves. I wasn't going to just quarrel with her about it, I mean I was just being polite to Judith Carpenter.

20

What it suggests is that on 15 December as a result of receiving a letter you decided to do something different, you decided to change the course that you had set.---Yes, yes, I don't deny that.

Because you received this letter?---No, not only that. I heard rumblings in the office as well which concerned me and I, I - - -

30

That's not what you anything in this letter.---Oh, look, it's, it's not, the letter's not meant to be the Magna Carta. I mean, I couldn't spell out, I, I put on paper what I thought, it was dictated, it was quick. I did, I tried to cover off on the relevant subjects. Okay, I missed a few or I didn't explain it well enough. Who hasn't done that in their, in their career?

40

Well, it's just that there isn't any contemporaneous record of your being concerned as a result of comments made by staff. I'm not saying you didn't receive any but there's no record of you expressing a concern as if it was affecting your decision making at the time. Instead, what you're indicating is, what is affecting my decision making now is the comments that you're making, calling to question whether he's a suitable appointment and about the influence exerted by councillors in the recruitment process.---I've already said I didn't, I didn't, I wasn't in the practice of keeping notes about things. I didn't do that. I was, I was a person of action. If I got, got a slant on something, that's what I was going to do, I did it. Now, I didn't muck around with notes and copious notes on all sorts of conversations I've had with people. I was the general manager. I simply didn't have the time to commit to that. So, I, I - - -

Why did you spend the time dictating this letter?---Because I had to respond.

But you're indicating that you're changing the course that you - - -?---Yes. Because that's what I decided to do on my own, without any, without any prompting from Hawatt or Azzi or anybody else.

And on, what you tell us, on the basis of material that's not in the letter, as well as material that's in the letter?---Yes. Because the letter clearly is deficient but I can't help that. I did what I thought was the, the, the right thing to say at the time.

- 10 Well, it's just, Mr Montague, one view that could be taken when a person doesn't record a particular factor, despite the opportunity to do so, as influencing their decision making, is that it can be concluded that that factor didn't weigh terribly heavily in the decision making process. That's one view that could be taken.---Yeah. it could be one view but it may be a, it may be a fallacious view. Look, I, I don't know what, what was going through my head. I've told you already, time and time again, I was under enormous pressure. Things were happening so quickly and, and that pressure was palpable, you could feel it through the building. I was doing what I thought was the best thing for the council and the organisation, the staff and the community as well. That's what I thought I was doing, and because I didn't spell it out in word of one syllable in the letter, how can I be, I mean, that happens everywhere.

Did you, did you decide to do what you described in your letter of 15 December, 2014, because you thought Ms Carpenter's letter of 12 December spelt trouble for you?---Ms Carpenter's letter of the 12<sup>th</sup> was certainly of concern to me so I had to take that on board, which is what I did and that's how I responded to it.

- 30 It did spell trouble for you, though, didn't it? If it was published - - -?---It's spelt trouble for the - no, I don't care about that. Look, the, it spelt trouble for the organisation. It spelt trouble for the staff if I put the wrong person in this role and I've said time and time again in this place, that I was interested in trying to get the best person for the job and that's what I thought I'd done. When all of that came to light, I had no choice but to react and that's exactly what I did, and I didn't consult Hawatt or Azzi or the mayor for that matter, but I think I told Brian I was going to withdraw the offer, which I, you know, was the right thing to do and that's it. It's, there's nothing behind the scenes here. It's what you see is what you get.

- 40 This is before you received those additional character checks, though, as has been pointed out from my colleagues at the bar table.---Yes, and that just, and, and, and that just made things even more urgent in my mind, that I had to do something about it. That's when I made the decision on my own, without prompting from, from anybody. I mean, you wouldn't expect Azzi and Hawatt would say to me, "Don't do that." Of course they wouldn't and the, the actions after that prove that beyond a shadow of a doubt.

Did you write that letter of 15 December, 2014, to provide cover for yourself?---No. I don't think like that.

To dissemble as to what was really going on, given that you knew all of what you had talked about in the first place?---Not at all. I didn't, it didn't even cross my mind. I didn't have to do that in that organisation.

Commissioner, this might be an appropriate time.

- 10 THE COMMISSIONER: Yes. All right. We'll adjourn for the day and resume at 9.30 in the morning.

**THE WITNESS STOOD DOWN** [4.40pm]

**AT 4.40PM THE MATTER WAS ADJOURNED ACCORDINGLY**  
[4.40pm]