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INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC
COMMISSIONER

PUBLIC HEARING

OPERATION DASHA

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 20 DECEMBER, 2018

AT 2.00PM

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

THE COMMISSIONER: Thank you.

MR BUCHANAN: Commissioner. Mr Azzi, you told us what happened between you and the applicant at the site at 23 Oatley Street, Kingsgrove. What did you say to Mr Occhiuzzi and what did he say to you?---You want me to finish what I was saying (not transcribable) finished?

10

Well, I understood you to have told us what the applicant said, and what I'm wanting you to do, if you wouldn't mind, is to tell us what happened between Mr Occhiuzzi and you and Mr Hawatt at that site?---Yeah. At one stage when the applicant finished his, what he said. He said he can't have a grass in the middle because rain washed all the dirt toward his, inside the house and he can't put any plant in the middle, it causes a problem. All right. We, said fine, what about both sides. He said, "Yeah, I agree with you but I have another problem on the sides." He said, "I have on one side, all the services," and he can show on the, on the left side, the big trunk, the tree filling in all the sides.

20

Can I just ask you, if you wouldn't mind, to turn to what you and Mr Hawatt said to Mr Occhiuzzi? I understand the applicant's explained why he couldn't comply with the development consent and wanted to keep his front yard concreted over. What happened between you and Mr Hawatt on the one hand and Mr Occhiuzzi on that occasion?---Mr Occhiuzzi, he said, "Yeah, I accept the request of the applicant, and no chance for him to plant the tree on the side or in the middle." We suggest to Mr Occhiuzzi what about if you ask the applicant to take part of the front side, one metre by three metre, whatever, and put the plants over there. Mr Occhiuzzi said, "Yeah, good, it's a good idea but I won't recommend it." I said to Mr Occhiuzzi, "You here and we are here to find a way and solution to this resident problems."

30

Sorry, could I just ask you, I didn't quite catch the beginning of that. You said to Mr Occhiuzzi?---Yeah.

You are here or we are here?---We are here.

40

Thank you.---We are here for the demand, council resolution, to find the applicant the way, a solution, and if any way we can deal with the situation. It's your job to recommend us what we have to do. This is an applicant, we are the councillors and you are the director, and we have to know as the councillors how we can find solution for this problem. He, he must tell us, and Mr Occhiuzzi said, "It's no option, only one. It can have the plant here."

He can have what here?---Out the front, out the front. You know, front side.

THE COMMISSIONER: You can have plants front side?

MR BUCHANAN: Plants.---Plant, you know, you need the plants like, you know, put it on the front, like, plants, green.

Yes, I understand.---Yeah. It's the only, the only place it can be fitted in. I said, "All right, yeah, is good idea." He said, "Yeah (not transcribable) but I won't recommend that." I said, "What's the other option?" Said, "It's up to
10 the council to change and recommend it, but I'm not changing my recommendation." I said to him, "Mr Occhiuzzi, you are a director and are following DCP, and you can see here there's no other solution, and this resident, we have to find a way to (not transcribable) house." He, he start, like, said, "What do you want me to do?" Now, I said to Mr Occhiuzzi, "Mate, all right, just write a report to the council. Explain what's on the ground and what the situation is and let us debate it at the council."

And not what?---Debate it at the council. And we, we report to the council why we should approve or disapprove or reject, whatever, the council
20 decide to go on with this. It's only (not transcribable). Mr Occhiuzzi wasn't, he said, "I will give my report the same as it is and you deal with it at the council." But I wasn't, clearly I wasn't happy with his answer to me. I said, you hear - - -

Did you lose your temper with him?---No. I said - - -

Were you angry with him?---I didn't express my anger there but I said to him, "Mr Marcelo, it's not a good answer." You know, I told him that. I said, "When we got back to the council I want to report to the council what
30 we've seen, and we're here to help the people, not making their life miserable." Truly I wasn't happy with, because there's nothing in it and this, as a councillor I represent those people. I'm acting on behalf of those people, the resident, and if I can see something right, it should be done. And our DCP, we discuss it with him, I said you can vary in the DCP. We can make some changes because you can't, it's the DCP, you can vary between 10 or 20 per cent.

Excuse me. Excuse me. Excuse me. Are you saying that you spoke to Mr Occhiuzzi at that site about the DCP?---Yeah. We said to him is any
40 chance in the DCP with the variation because - - -

Excuse me, but this is a development consent.---Yes.

Under the Local Environmental Plan.---Yes.

Well, the question was why had there been a breach of the development consent, and whether the modification application to allow the outcome of

that breach to stay in place, namely the concreting over the front yard. That was the question, wasn't it?---The question - - -

Nothing to do with the DCP.---No, no. I'm asking Mr Marcelo if any solution to the problem we can debate it at the council. Council can make decision to change things.

10 Yes, but there wouldn't have been any conversation about the DCP. It had nothing to do with the DCP, did it?---I've been asking a question. I've been asking Mr Marcelo to give us any idea, any solution.

Did you think this had something to do with the DCP?---Well, I've been asking the question. I have no idea. I did ask him if we can find anything in the DCP to fix the problem. It's not a big deal. We have to find a solution for the guy. If any way. We've been asking the question. He's, he's the one, his job to give us an answer.

20 Now, would it be right to say that Mr Occhiuzzi said that the concrete would need to be removed and the previously approved landscape plan reinstated? ---That's what he in his report said, he can't sign, he wants the concrete to be removed.

And you indicated with Mr Hawatt, didn't you, that that was an unacceptable outcome?---No, I didn't say unacceptable.

30 No, I'm not suggesting you did. I'm putting it to you that you indicated that, didn't you?---I didn't make a decision on the spot. I've been asking. We are there to just find a solution for the guy and make a report back to the council.

And the council had not resolved, had it, that you find a solution, you and Mr Hawatt find a solution to the applicant's problem?---The council I believe - - -

They'd resolved upon a site inspection.---Site inspection. The site inspection has to be reported back.

40 Yes. They hadn't resolved that you and Councillor Hawatt find a solution to the problem, had they?---No.

Why did you tell us that earlier in your answer?---I said we are there and we did ask the director to come up with a solution if any way we can solve this problem. His job to report it back to us, tell us if any solution. We have no idea what the solution going to be.

And, Mr Azzi, you and Mr Hawatt became increasingly aggressive towards Mr Occhiuzzi on that occasion, didn't you?---No, no.

You raised your voices.---No.

And you - - ?---I was speaking normal.

You both criticised him for not being flexible.---No.

You didn't criticise him for not being flexible?---No.

10 And did Mr Hawatt say that if Mr Occhiuzzi wasn't prepared to be flexible on the subject then the councillors would approve it anyway on the floor of the council?---I don't remember I said that, but at the council we debated the issue and we, I believe (not transcribable) happen at the council.

It would have been a very unpleasant experience for Mr Occhiuzzi on that occasion, having you and Mr Hawatt berating him, as I suggest you were.

20 MR PULLINGER: I object to that question. He doesn't accept that he berated, so to presume that to be the situation and then invite comment on how Mr Occhiuzzi would feel - - -

MR BUCHANAN: I'll withdraw the question, Commissioner. You did berate Mr Occhiuzzi on that occasion, didn't you, you and Councillor Hawatt together?---What do you mean berate?

Lecture him in an angry fashion with raised voices.---No.

30 Do you think that Mr Occhiuzzi had any justification for taking the position he did, that the concrete, the breach would need to be remedied? The breach of the development consent.---Can you, can you change that? Like - - -

Yes, sure.---I want to understand your question properly, please.

Sure, sure, sure, sure. Is it right that Mr Occhiuzzi's position on that occasion was, look, the development consent has been broken, has been – the applicant has done something contrary to the development consent granted by council? Did Mr Occhiuzzi indicate that?---What been report, it seems like the applicant he breach the consent. Shouldn't be, it shouldn't be concrete.

40 Correct.---Yeah, that's what I understand.

Yes. And you don't think it might have been legitimate for the director of planning to have taken a position that development needs to be conducted in an orderly fashion, according to rules that everyone understands?---Yes, he must.

And that was the position that Mr Occhiuzzi was taking on this particular occasion at Oatley Street, Kingsgrove, wasn't it?---Yes.

And he did indicate that the applicant could lodge an amended plan which would be considered by his staff, didn't he?---No, he didn't say that. It's already, I believe, the applicant lodge section – I don't, I don't remember what he did to lodge that day.

And in arguing with Mr Occhiuzzi on that occasion, as you and Mr Hawatt did, you were interfering in the way he did his job, weren't you?---No.

10 An inspection is not an attempt to come up with a remedy. An inspection is looking at what you're told to look at.---Yes. Yes.

But you and Councillor Hawatt took it upon yourselves on this occasion, is this right, to require that Mr Occhiuzzi come up with a solution that would be acceptable to the applicant?---No. Said come up with a solution and report it to the council. The council only can change this, not Mr Occhiuzzi or us. We put it through the council because they need a report back and explain what was going on bit by bit, and let the council decide what action can take with this applicant.

20

But you required him to come up with a solution, didn't you, on the site when you were with him?---Tell us solution to the council. Report, just write a report and have a solution.

No, no, please listen to me.---Yes.

In your exchanges with Mr Occhiuzzi, you were requiring him to come up with a solution to the problem that this man had breached his development consent and wanted to keep it that way.---No, the solution to report it to the council. Not me who make a decision.

30

And what is the solution that would be reported to the council?---I don't know. He tell what, what's going on, what we have to do. The council will decide later on if we take the concrete out or keep it or find another way. He has to report to the council.

So was a solution, in your opinion, on that occasion to require the applicant to remove the concrete and start again?---I didn't make any requirement to Mr Occhiuzzi.

40

No, in your opinion was that a solution? What Mr Occhiuzzi was saying should occur, was that a solution?---Doesn't have to be necessary.

It wasn't a solution in your opinion, was it?---Doesn't have to be necessary. What I did ask Mr Marcelo, to write a report what he's seen and what the outcome of the inspection is.

Mr Occhiuzzi resigned as director of planning, didn't he?---He did.

And that was on – if I give you the date, it was on about 7 November, 2014. I'll just ask you to keep that date in mind.---7th.

Before he resigned, you and Mr Hawatt had on a number of occasions put pressure on him, hadn't you?---No.

10 You had, together with Mr Hawatt, made major changes to his recommendations in his Residential Development Strategy reports in 2013 and 2014, hadn't you?---The council made the changes, not me and Councillor Hawatt.

And the councillors voted the way they did because, essentially, you and Mr Hawatt controlled the numbers on council.---No.

People voted the way you and Mr Hawatt proposed council vote.---I don't accept this, Mr, I don't direct councillors how to vote.

20 I just need to take that one little step further then. The evidence before the Commission is that in planning matters in 2014-15-16, you and Councillor Hawatt were the moving forces. You and Councillor Hawatt were frequently either moving or seconding the motions for resolutions on council and you always succeeded in planning matters.---Yes, yeah.

30 And the extent of your involvement, from the material before the Commission, in the decisions that were made by the council – together with the evidence that's before the Commission as to your dealings with Mr Stavis and Mr Montague on planning matters – suggests that you and Councillor Hawatt together, sometimes individually but often together, drove the planning decisions that were made by council. It was what you wanted to happen that happened. What do you say?---Is that question, I, I, if I wanted to go, what I wanted, no. Councillor must agree.

Is there anything else that you would say in response to that suggestion? ---Well, no. I don't accept this. The councillor must agree. I don't drive anyone, I don't tell anyone how to vote.

40 And on more than one occasion, you were angry with Mr Occhiuzzi, weren't you?---No.

And you interfered in the way he did his job, didn't you?---No.

And certainly, on the occasion that you attended the site at Oatley Street, Kingsgrove in April 2014 – I want to suggest that that was the month, April 2014 – you were doing your best to interfere in the way he did his job, weren't you?---No. I was requested by the council to attend and I didn't interfere with his job. His job to report back to the council what he's seen and were, that's why I did, that's why I, this what I asked Mr Marcelo, just

report back to the council, that way the, the, the inspection had been conducted, just was step by step, what, what's going on there, what you can say, what, that's all, what's happened, that the council understand the situation and they can make this decision on what they be reported to.

How did you find out that Mr Occhiuzzi had resigned?---No, after the general manager told us.

10 And do you know – I withdraw that. How did he tell you, how did you find out from the general manager?---I don't remember. He told all the council, I believe.

And did you have a discussion, after you found that out, with Mr Montague about how the job should be filled, how a replacement should be found?
---No.

20 Did you have any discussion with Mr Hawatt about what might be done in finding a new director of planning?---I don't remember we have discussion with Mr Hawatt, but we discuss it with all the council, so said what's happening now, not, not like private discussion or, no, no, no, no.

So thinking of this time, this is November 2014, were you in the habit of having telephone conversations with Mr Hawatt by himself?---I don't understand your question, mister, sorry.

I'll reframe it. You spoke with Mr Hawatt from time to time, is that correct?---Yes.

30 Were some of those discussions on the telephone?---Yes.

Just the two of you on the telephone?---Yes, yes.

And did you and he discuss tactics and strategies in relation to matters before council – that's to say that were being considered by council – on the telephone?---Sometimes, yes.

Did you discuss with him on the telephone how to replace Mr Occhiuzzi?
---No. It's not my role.

40 Why not?---Because I have no idea how it's going to be to replace. I have no idea. It's not my role.

You didn't have any idea about how the director of planning was to be replaced?---No.

Did you find out how he was to be replaced?---Later, yes.

When did you find out?---When Mr Montague approached us. If he said he want to employ or hire another director (not transcribable) he said, "I want to form a panel." And - - -

Sorry, who said that?---Mr Montague.

Thank you.---Said he want to form a panel.

10 Thank you. Did you have any discussion with Mr Khouri about how Mr Occhiuzzi would be replaced?---No.

Did you have any discussion with Mr Vasil about how Mr Occhiuzzi would be replaced?---No.

Did you have any discussion with any developer about how Mr Occhiuzzi would be replaced?---No. I can't, I can't recall any, any of this discussion. It wasn't on the agenda.

20 Were you not interested in the filling of the position of director of planning before Mr Montague had that conversation with you that you've told us about?---No.

Why weren't you interested?---It's not my job.

But you were interested very much in planning decisions, weren't you?---I'm interested in, not in planning decisions, sir. I'm interested the council to be active and functional. That's my interest. I don't care who's going to be the director. It's not my job.

30 And you thought that Mr Occhiuzzi had been too strict in his application of the planning laws and rules, didn't you?---No.

You wanted someone who would provide solutions.---Well, doesn't mean Mr Marcelo is not able to do it. My, our relationship, I always said to Mr Marcelo at that time, "You're good, mate. Do what you, your best." But if we disagree sometimes on one issue, doesn't mean I don't like Mr Occhiuzzi. It's, it's a role between councillors and the staff and with everybody. If you disagree with somebody, doesn't have to mean I don't like you.

40 The departure of Mr Occhiuzzi was an opportunity for you and Mr Hawatt, wasn't it, to have him replaced by someone who would be more flexible in the way they approached the application of the planning rules.---No, it's not right.

You understand what I mean by flexible?---Yes. It's not right.

Why isn't it right? What's wrong with that?---Because, because I never think this way. I never thought about who's going to be the director and who's, how we're going to manage.

You're sure that's right?---Yes. It's what I believe. It's not right. I don't involved.

10 You don't involved. Do you mean to say you didn't get involved?---I don't get involved about the process or about the process how to hire or fire or, like, who's going to be the next director.

You didn't get involved in the selection of a replacement for Mr Occhiuzzi? Is that what you're telling us?---No, Mr, Mr Buchanan, you ask me before or after the panel been.

Well, I'm asking you the open question.---At the beginning.

Did you get involved in the replacement of Mr Occhiuzzi?---Yes.

20 How did you start getting involved? What was the first thing that happened?---When Mr Montague asked me if I will like to be in the panel.

Now, did anyone – I withdraw that. When did you first hear the name Spiro Stavis?---When I've seen it in the, in the list.

And are you talking about a list that Mr Montague distributed of candidates who had applied for the job?---Yes.

30 Did you hear the name Spiro Stavis from anyone before you saw that list? ---No.

You first saw that list perhaps about 10 days before the interview panel sat on 17 November, 2013. Is that right?---I don't, I don't remember when, sir.

How much time was there between the time you saw this list and the time when you sat on the interview panel, which we know was 17 November, 2014?---I don't, I don't remember when was the date.

40 Yes, I understand that, but how much time elapsed? How much time was there between when you first saw the name and then the time when you were all in a room and the candidates came along one by one?---I don't know. I don't know. I don't remember.

How long after the departure of Mr Occhiuzzi was it that you first saw this list?---I don't remember either.

Did you see the, where were you when you saw the list?---When we (not transcribable) at the council. I don't remember. Maybe at the council when

he gave us, when he gave us the list, the official list. I can't remember the date.

Was the list something you received along with some other papers that were couriered to you?---Believe me, I don't, I don't recall. I don't, I don't remember which day and how it's been. I can't remember.

So did Mr Khouri tell you about Mr Stavis?---No.

10 Did Mr Khouri say anything to you about Mr Stavis?---No.

Ever?---Ever.

Never ever, ever in his whole life or your life did Mr Khouri in your presence or on the phone ever say to you the words Spiro or Stavis? Is that what you're telling us?---Not all his life. Maybe after (not transcribable) when he try to sack him. I don't know if he mention it after.

20 Thank you. During the time before you sat in the interview panel with Mr Montague and Mr Hawatt and Mr Robson, so before that actual day, did you have any discussions with Mr Montague about the replacement, finding a replacement for Mr Occhiuzzi?---I don't remember I have a private discussion with him.

And did you have any discussion with Mr Hawatt before that meeting - - -? ---No, I don't remember that.

30 - - - about finding a replacement for Mr Occhiuzzi?---No, we didn't discuss who's going to be finding a replacement. It's up to the, to the GM. I didn't take any notice of it.

When did you first have any contact with Mr Stavis?---The first time when we met at the café.

Excuse me a moment. When did you first learn that you were to be a member of this interview panel?---When Mr Montague told me and asked me. I can't, I can't recall the date.

40 What were the circumstances in which Mr Montague and you had that conversation?---Oh, just he came, I, I, I, I couldn't like remember, it was at the council when he approached, it was at his office or he came to the mayor's office at that time and he, we were there. I can't remember but at the council he approached and said, "I want you, Michael and the mayor to be in the panel. So you want to be?" I said all right, you want us to be on, yeah. That's it, that's when he approached me and asked.

Could it have been on the telephone that the approach was made?---I don't, I don't remember. I don't think so. I don't think so. I don't know but I think face-to-face. That's what I remember, I recall.

And do you have any understanding about why Mr Montague asked for you to be a member of the interview panel to help select a candidate to replace Mr Occhiuzzi as director of planning?---No, I didn't ask this question.

10 Do you have any understanding, though, about why you were asked?---No.

So did it come to you as a surprise that you were asked?---Yeah, normal, it wasn't a surprise. He asked me a question, I thought it's normal. I didn't have any experience before and I, I believe this was normal. He said would you like to be, I want you to be in the panel. You, Hawatt and the mayor.

Had you – I withdraw that. You hadn't any experience of this happening before, is that right?---No, no.

20 Had any director been replaced since 2012, before Mr Occhiuzzi left in 2014?---No, I wasn't, no, no.

All the directors were exactly the same, were they, until November 2014? ---Yes.

Did you have any understanding about why Mr Montague asked for you three to be members of the panel but not other councillors?---No.

30 Did you think that there should be someone on the panel who should have experience in planning?---I, I said before, I don't know. I have no, the first time happened to me. I had no idea.

But did you think that if you – I withdraw that. What did you understand to be required of you as a member of the interview panel?---We been given, so the only requirement there, I just, we been given a list of questions I have to ask and we can make, it's a panel, we can select from candidates and just we can recommend, so we recommend what shortlisted from all the candidates we will recommend and that's it, that's out role.

40 Recommend to Mr Montague?---Yes.

So that you would play a role in assessing who was the better of the candidates and providing your opinion to Mr Montague who would make the decision. Is that how you understood your role?---Yes.

Did you think that it would have been useful to have a person on the panel who knew something about running a planning division?---I don't know.

It didn't occur to you that there was no one on the panel who had any qualifications in planning or who had run a planning division, and yet you were meant to try and work out which was the best candidate to run the planning division? That didn't occur to you as being a bit strange?---Well, Mr Buchanan, I can't, I don't know about how to answer this question because I said to you I have no experience before, the first time. Nothing of this come out to my brain and I thought this is normal and - - -

10 Why was it normal for you and Mr Hawatt and Mr Robson to be selected and not any other councillor?---Well, I don't know. That's, I been asked and I said yes.

On what criteria did you understand Mr Montague had proceeded in choosing you three, rather than any of the others?---I don't know, sir.

But you did know, didn't you, Mr Azzi? You understood exactly what was going on, didn't you?---No.

20 You understood, didn't you, that you and Mr Hawatt were the people who controlled the numbers on council and that planning decisions were made by council according to what you and Mr Hawatt wanted.---No.

And that explained why Mr Montague wanted the two of you on the panel, didn't it?---What about the mayor?

Yes. I'm asking about you two.---No.

30 Can I ask that the witness be shown Exhibit 60, please. You can see it on your screen, this document?---Yes.

You can see a document?---Yes.

Thank you. This is another set of call charge records. The – I'm sorry, I think, yes, we're trying to, we'll try and assist.

MR PULLINGER: Thank you.

40 MR BUCHANAN: I'll move on to another topic that doesn't require a document at this stage, Commissioner, and come back to Exhibit 60. Did you and Mr Hawatt, before the interview panel sat, have any discussion with each other about who the candidates should be that would be interviewed? ---The question is before the panel been sat?

Yes.---How - - -

So it's before 17 November because that's when the panel sat. So before 17 November, did you and Mr Hawatt talk to each other about who the

candidates should be that would be interviewed?---No, haven't got the names.

You see, did you have any discussion with Mr Montague as to who the panellists, I'm sorry, as to who the candidates should be that would get an interview? Or any candidate?---Like, get me bit confused. You said before the panel was - - -

I'll reframe the question.---Yes, please.

10

If you don't understand it, I'll reframe the question. Did you say to Mr Montague that you wanted Spiro Stavis to get an interview to be one of the candidates who is included in the list of candidates to be interviewed, sometimes called shortlisting?---You mean before that time?

Yes.---No.

You're quite sure about that?---Yes.

20

I want to suggest to you that you and Mr Montague knew of Mr Stavis – I'm sorry, I do apologise. I'll start that question again. You and Mr Hawatt knew of Mr Stavis before the interview panel was convened and that you had a conversation with Mr Montague in which you indicated to him your wish for Mr Stavis to get an interview.---Before the panel?

Yes.---No.

30

Excuse me a moment. The evidence before the Commission shows that there were numerous contacts that you had with Mr Hawatt by telephone in the period after Mr Stavis had lodged his application for the job – which was about 25 or 27 October, 2014 – and the time when the panel sat on 17 November, 2014. Do you understand?---Yes.

40

And it also shows that there were numerous calls between Mr Montague and you and Mr Hawatt. And when I say calls, I'm including text messages in that period. Were any of those communications or contacts about Mr Stavis?---I don't remember this, sir, what, what was in the conversation. I remember I didn't discuss anything, I don't remember I discussed anything before the interview with Mr Montague about Spiro Stavis. I don't remember anything happening before but I didn't know Stavis before.

So, can I take you then to the meeting at Marrickville. The evidence before the Commission shows that that meeting occurred, commencing at about 6 o'clock in the evening of 16 November, 2014, and that the venue was a café called Victoria Yeeros in Marrickville. Does that sound familiar to you? ---Well, I don't know what the name of the café but it's happened in one café in Marrickville.

Was it a café that you'd been to before?---I haven't been in this one before.

So how come you were meeting at that particular café rather than some other café?---Well, Michael asked me, "Let's go have a coffee over there." That's it.

Did you ask Michael what about?---Yeah. He said - - -

10 Why you had to have a coffee?---He said he want to see if new building still built in Marrickville.

THE COMMISSIONER: A new building?---Yeah. That's what he said, it's a new building and he want to have a look about the design of this building and let's have a coffee there at the café.

MR BUCHANAN: Did you take anything with you to this coffee shop?
---Like, my, my phone.

20 Did you take any papers with you?---No.

And what happened when you got there?---To the café?

Yes.---What happened, we went there, just in, I don't remember how long, many times, just what I can recall, I remember, and the guy approached us and he introduced himself and said - - -

Who was the guy?---He introduced himself as Spiro Stavis.

30 Oh, I see. Yes.---And said - - -

So this person came up to you and said he was Spiro Stavis?---And he's applying for a job in the council.

Sorry, can I just take a step back. Were you sitting down at a table?---Yes.

You were. Were you with Councillor Hawatt?---Yes.

Were you with anyone else?---No.

40 And what were you and Councillor Hawatt doing there?---Going to have a coffee.

Yes, but why? Why have a coffee at that time?---That's what, he's asked, "Let's have a coffee. Come on."

Where did you come from in order to meet him there?---Come from? What do you mean?

Where had you been before you arrived at the Victoria Yeeros café at Marrickville? Where had you last been?---I don't remember where I been.

How had you got to the café?---By Councillor Hawatt car.

THE COMMISSIONER: So he picked you up, did he?---Yes.

MR BUCHANAN: And where did he pick you up from?---I believe I was, picked me up from home, of course, because I haven't got a vehicle, but - - -
10

Why couldn't you have had a coffee at your home with Councillor Hawatt?
---He said he want to go to Marrickville to have a look for something, a site, building, I don't know. And we have a coffee there.

Yes.---That's what he said to me.

Was this by arrangement or did Councillor Hawatt just turn up at your home?---No, just he call me because he knew I would be home by 6 o'clock.

20 And when did he call you?---I don't remember.

How long before he turned up at your home?---I don't know. I don't remember what's happened.

Was it the same day?---I don't remember when he said, same day or, I can't remember what, when, when this arrangement happened, so I don't remember.

30 So there was an arrangement?---I don't know. I don't remember anything about it, but was, I remember, I'm telling you I've been in the car with Mr Hawatt to go have a coffee. That's what I would remember. How it's been arranged, made a call or do phone call or, I can't remember anything.

And so where in the café were you sitting?---I, I, I don't know if we were sitting or standing.

You don't even remember whether – I thought a moment ago you agreed you were at a table with Councillor Hawatt?---Normally when we go - - -

40 THE COMMISSIONER: You said you were sitting at a table.---Yeah, we were sitting at the table. But normally when you go and have a coffee, you sit in a table, but, you know.

MR BUCHANAN: Where was the table?---I don't know. I don't remember where. Where, outside or inside, I can't remember.

And you and Councillor Hawatt were talking to each other, were you?
---Talking? Yes.

And had you been shown by Councillor Hawatt a building already at Marrickville somewhere?---Yeah, yeah, yeah, the building site.

What was the building?---It's a corner building opposite the café.

What's the corner?---I don't remember what's, what the street name.

10 What's the building?---It's a three storeys I think. It was a three-storey building or four-storey building, something like that. It was new.

And what sort of building?---Apartment.

And what was it that you understood Councillor Hawatt wanted you to see it for?---I don't know.

Well, surely Councillor Hawatt pointed out something to you about the building.---Said about the, the, the design of the building.

20 Sorry, the what?---Design.

The design of the roofing. What was it about the design of the roofing? I'm sorry.

THE COMMISSIONER: Of the building?

MR BUCHANAN: The design of the building - - -

30 THE COMMISSIONER: The building.

MR BUCHANAN: - - - that you understood Councillor Hawatt - - -?---I don't know.

- - - was trying to get you to appreciate?---I, I don't know. He just ask me, look, see the design, and that's it.

Was there anything remarkable about the building?---Well, I didn't see anything remarkable.

40 THE COMMISSIONER: And this building was opposite the café?---I, I think so. At the corner, I think, close to the café or opposite. I can't remember properly, madam, and it's a while ago, but the building was there.

MR BUCHANAN: Was the building diagonally opposite? That is to say, on the other side of an intersection?---I don't know. I don't remember.

What did you learn about the building as a result of being shown it by Councillor Hawatt on 16 November, 2014. What did you learn about it?

---Nothing. Just, I didn't take any notice. You know, look, he said this building. All right, so? No comment.

Are you sure that it is the truth that you're telling us about the circumstances in which you came to go to the Victoria Yeeros café at Marrickville on 16 November, 2014?---That's (not transcribable) yes.

10 And how did this man approach you? Was he already at a table? Where did he come from?---I don't know. I didn't see. I didn't look. I didn't know. I have no idea if he was there or outside. I haven't seen him.

And what did he say?---I didn't take any notice.

What did he say? What was the first thing he said?---He introduced himself.

Yes. What did he say?---He said, I remember he said, he introduced himself as Mr Stavis.

20 THE COMMISSIONER: What, like "Hi, I'm Spiro Stavis"?---I said hello. I can't remember exactly but, exactly what he said I can't remember, it's a long time ago, but I believe he said, and he, we understand (not transcribable) I know he's Spiro Stavis and he's applying for a job at the council. How he say it, I have no idea. I can't recall. I can't remember.

MR BUCHANAN: Did he say that he was applying for a job at the council?---Yes.

30 Did he say that to you and Councillor Hawatt?---Yes.

He's standing at the table. You and Councillor Hawatt are sitting there. He comes up to you and says, "I'm Spiro Stavis. I'm applying for a job at the council." Is that right?---I don't remember. No.

What's wrong with that?---I didn't say that. I don't know I can't remember how, the way it approached, but you're asking what's happened. I can't remember he introduce himself which way and which, where he come from I, I can't remember.

40 And as you understood it, why did Mr Stavis approach you on that occasion and say that he was applying for a job at council?---I don't know. I was surprised. I have no idea.

You, I take it, did not have a badge on you saying "Azzi, Canterbury City Council councillor"?---No.

And Councillor Hawatt didn't have any sort of badge like that either?---No.

And you hadn't seen this man before?---No.

Did Councillor Hawatt indicate to you that he'd seen this man before?---No.

He never told you oh, I know that guy?---No, he never mentioned that to me.

10 So are you able to assist us as to how Mr Stavis would have understood that it might be useful or productive for him to introduce himself to you two and tell you that he was applying for a job at council?---I don't know.

THE COMMISSIONER: So the only two people who knew that you were going to Marrickville to have a coffee and look at a building were you and Mr Hawatt?---That's what I (not transcribable) I don't know.

From your perspective?---From my perspective, me and Hawatt only.

20 Because you got a call from Mr Hawatt saying, "Want to show you a building," and he - - -?---He said, "Let's go for Marrickville," and on the way said, "I want to look at this building." That's what he - - -

And he picked you up from your home?---Yes.

And took you there and you're sitting at the table and, what, this person was wandering down the street and - - -?---Madam Commissioner, believe me, I have no idea because I have no clue I'm going to meet somebody. I don't know. I wasn't - - -

30 No, no. You just remember him being there at the table?---No, no, I haven't, even too many people there. How I should know this is Spiro Stavis.

No, no, no, no, I'm not asking you that. You're sitting at the table and you're admiring this two or three-storey building and your next memory is of this person just standing next to the table?---No, no, we just mentioned that building and we had a coffee. We wait upon our coffee.

And then suddenly this man - - -?---And suddenly - - -

40 - - - who says he's Stavis is there?---Yeah, I don't know where he come from but I'm sitting like on the table, you know, the café. Too many people walk. I didn't take any notice I'm going to meet somebody. It's out of my mind. When somebody come and approach you, yeah, hello, hello.

So he said, "I'm Spiro Stavis and I'm applying for a job at the council"?
---Yes.

MR BUCHANAN: And what happened next?---I don't know. I didn't say any word. (not transcribable) so, and I listen and - - -

THE COMMISSIONER: Did anybody say, "Please have a seat. Have a chat with us"?---Look, I don't remember if we invite him to sit, but at the end of the day he sat. But I wasn't saying a word. I was, was like surprised listening to the guy and - - -

10 So you didn't talk to him?---No, I didn't say word. I was listening what he want to say.

All right. So Mr Hawatt spoke to him?---Yeah, I believe so. We spoke and said, "Yeah, what can we do for you?" So, yes, what we can do, I said to him, "What we can do for you?" And he said - - -

MR BUCHANAN: Well, no, excuse me. Can I just ask, did Mr Stavis find out that you were also from the council?---I didn't ask him this question.

20 Do you mean to say that neither you nor Mr Hawatt said, "Oh, that's funny. We're from Canterbury Council"? That didn't happen?---I didn't say any word. I don't remember - - -

So, why did Mr Stavis – I withdraw that. Can you help us as to whether anything happened for Mr Stavis to understand that he should talk to you about the fact that he was applying for a job from council?---Oh, I don't know what's in Mr Stavis' mind.

30 But did anything happen that explains it to you that you can tell us about? ---Well, I didn't take any notice from that meeting, just I was listening to him and this is took a short, a short meeting because - - -

Did Mr Hawatt say anything to indicate that you and he were associated with Canterbury Council?---No. I, I don't remember what, what was happening.

So, there's nothing that happened - - -?---I don't remember what's happened.

40 According to you, nothing happened to indicate to Mr Stavis, this man who came up to you, that it would be worthwhile him talking with you, is that right?---No. I don't remember what's happening on that day until I start refreshing my memory because I didn't, didn't recall it. You know, I didn't take any notice from that meeting.

But do you understand the problem here, that on the account that you've given us there was no arrangement for - - -?---I don't know.

- - - Mr Stavis to meet with you two at that café?---I'm, I don't know anything about the arrangement, no.

And Mr Hawatt certainly didn't indicate to you that there was any arrangement.---No.

10 THE COMMISSIONER: Did you or Mr Hawatt say – when this man came up to you and said, “I'm Spiro Stavis. I'm applying for a job at the council” – “What a coincidence. We're councillors,” or “Which job? Wow, we're on the panel”? Anything like that?---No. I didn't say that, to me, I didn't ask Mr Hawatt this. It's, we talk to this guy, he come to us, about asking the question.

MR BUCHANAN: Did Mr Stavis say which council he was applying for a job for? You were at Marrickville after all. Did he indicate which council he was applying for a job for?---No. I, I don't remember what he said. That's what I can't remember because it's take short period of time and I was, I don't, I don't know what it, what I have to say at that time. I didn't say any word. I didn't take any notice. I kept quiet and I didn't say any word.

20 What did you understand was happening?---That's what I said. I'm coming there, I stay short period. We didn't discuss anything with him. I didn't - - -

But what did you understand was going on? You weren't taking part, you told us. Mr Hawatt was doing the talking. Mr Stavis was doing the talking. What did you understand was going on?---I don't understand anything because not much was being saying at my present and I didn't take any notice. I don't know what was going on. Believe me, I didn't know. I couldn't remember anything. It was like, like, click.

30 Did Mr Stavis say anything to indicate that the meeting had been prearranged?---No. I don't know about this. I don't remember.

He never said anything to indicate that?---No. I remember - - -

And Mr Hawatt never said anything to indicate that?---No, no. I don't know.

40 And so, on the account you've given us, there is this meeting that happens outside the Canterbury local government area, correct?---Yes.

Between a person who has applied for a job at Canterbury Council and two Canterbury councillors with no prearrangement and no discussion as to how he knew that you were councillors?---Well, I, I don't know.

How could he have known that you were councillors?---I don't know.

Do you see that this is all very strange, Mr Azzi?---Maybe. I don't know, so
- - -

A possible explanation is that you're not telling the truth about what
happened as to how this meeting occurred.---No, I'm telling the truth, sir.

I note the time, Commissioner.

10 THE COMMISSIONER: Yes. We might just take a five-minute break.
---Thank you.

We'll resume in five minutes.

SHORT ADJOURNMENT

[3.05pm]

20 MR BUCHANAN: Commissioner, I make an application to vary a non-
publication order made on 2 December, 2016. If I can give you a transcript
reference, page 677 through to 678, and I can give you line references.

THE COMMISSIONER: Just hold on for a minute, please. Yes, page 677.

MR BUCHANAN: Starting at line 24 and concluding on page 678 at line 3.

30 THE COMMISSIONER: Excuse me for a minute. Right. I vary the non-
publication order made on 2 December, 2016 to exclude the evidence of Mr
Azzi recorded in the transcript commencing at page 677, line 24, and
finishing at page 678, line 3.

**VARIATION OF SUPPRESSION ORDER: I VARY THE NON-
PUBLICATION ORDER MADE ON 2 DECEMBER, 2016 TO
EXCLUDE THE EVIDENCE OF MR AZZI RECORDED IN THE
TRANSCRIPT COMMENCING AT PAGE 677, LINE 24, AND
FINISHING AT PAGE 678, LINE 3.**

40 MR BUCHANAN: And if, Commissioner, normally I would take the
witness to that evidence, but can I ask a few more question before taking the
witness to that evidence?

THE COMMISSIONER: Yes. Yes.

MR BUCHANAN: Mr Azzi, you've told us about sitting there. Did Mr
Stavis take a seat at the table?---I believe yes. I, I, I, I think so.

And it was a short conversation I think you've told us, is that right?---Yes.

And it was being conducted between Mr Hawatt and Mr Stavis with you just sitting there listening, is that right? Is that your evidence?---What I said, I was sitting there, I listen to Mr Stavis, yeah.

And did anything happen during the meeting?---Like, like what?

10 Anything at all. Did anything happen except conversation?---No, what I seen, it's nothing happen. I was listening what Mr Stavis said. What I can remember, I said to him, "All right, we'll see you, I'll see you at, in the panel." That's all.

And I appreciate it's a while ago now, but as best as you can, can you recount to us, please, what Mr Stavis said to you?---Well, I, I can't remember what he said to me. Just what I can remember, I said, "Mr Stavis (not transcribable)" He said, "You guys from whatever, councillors, I'm applying for a job at the council." And that's what I can remember, you know. That's all I think I can remember, sir. That's, he introduce himself and it's nothing, I didn't recall anything. I didn't remember anything else.

20

Did Mr Hawatt or you ask him any questions?---I didn't ask any question.

Did Mr Hawatt ask him any questions?---I don't remember if he ask him a question or he ask him what, I don't, I don't remember what question, any question asked.

THE COMMISSIONER: Did you ask, "Which job?"---He said, "I'm Spiro Stavis."

30 And he said, "I'm applying for a job at the council"?---Yeah. But I knew by the fact, because I heard this name. It was in the list, Spiro Stavis, applying for - - -

So when he said that, it clicked in your mind?---Yes (not transcribable)

MR BUCHANAN: So you had seen the list by 16 November, 2014?---I, I was had the list, yeah.

40 Thank you. Right. And what did Mr Stavis say? What was the gist of what he was saying?---I don't remember what he said. I don't remember because I, I, I, like - - -

Did he say anything about being a candidate or why he would be a good person to select?---I, I don't recall. I don't remember anything because I switch my head at the time. I - - -

What do you mean you switch your head at that time?---Because I, I said to myself I don't want to listen. I kept quiet. I don't want to speak. I don't

want to answer any question. I don't want to say any word. I, you know, I clicked myself and stay for a short period and, and I, what I could remember, we left like a, in short time because I wasn't feeling like sitting there comfortable. That's it.

Did you tell Mr Hawatt that you didn't want to sit there?---No, I said, "Let's, let's go."

10 What, whilst Mr Stavis and Mr Hawatt were talking to each other, you said to Mr Hawatt, "Let's go," is that right?---Yeah, I remember I said, "Let's go." Yeah, well, they're still there, he was still there, I said, "Will you excuse me? We've got to go." But that's all I can remember. I left a short time later. You know, that's what's happened.

And was there anything on the table at any stage, apart from coffee cups?
---I don't, I can't remember I seen anything on the table.

20 Any documents on the table?---I'm not sure hundred percent. Like, I didn't, I didn't see, I didn't take notice if like, anyone have anything with himself, but that's what I can say.

You had received the list of candidates before you went to this café with Mr Hawatt?---Yes.

Was that list of candidates on the table?---I haven't got it.

30 I'll just ask it a different way. At the time of the meeting, was the list of candidates on the table?---I've seen Mr Hawatt had a folder but I, I haven't seen what's in it. I've seen Mr Hawatt - - -

What sort of folder?---It's a small one. I remember, it's folder, like, folder.

THE COMMISSIONER: Like a folder like this?---No, no, no.

A manila folder?---It's, it's, I remember, what I can remember, it was something like a folder with him.

40 MR BUCHANAN: A cardboard folder?---I can't remember but he got something with him.

Plastic folder?---I, I can't remember how big is it, how, how - - -

How big was the folder?---I can't remember but he got something - - -

What colour was the folder?---Pardon?

What colour was the folder?---I don't know.

And why to you – what was it about the folder that enables you to remember it?---Nothing. I didn't take any like, notice of it.

Where was the folder when you first saw it?---When, when Mr Hawatt brought it from his car I think. I don't know.

10 Did Mr Hawatt have a bag with him?---I don't remember what he did, but Mr Hawatt, he had a folder but I can't remember how it's been, it's only, it's long time ago. What I could remember, that's what's happened. I can't remember how big, how's the folder, but I knew Mr Hawatt, he got in his car or he brought it with him, I can't remember how big and how it looks like and how - - -

So he took it out of the car and took it into the café with him, did he?---I, I don't know if we walked back again and he bring it back. I can't remember actually how it's happened.

20 But you can remember that the folder was at the meeting?---Yeah, it was like, a folder.

Where at the meeting was it?---At the - - -

Was it beside on the floor, beside Mr Hawatt on the floor or was it on his lap? Was it in his arms? Was it on the table? Did you look at it?---It was, it was on his side on the table.

On the table.---That's where I have seen it once at the table.

30 Was it opened at any stage? Did anyone open it?---I, I, I didn't see anyone open it.

What was this folder, as you understand it?---I don't know what's in it. I never ask. I saw this - - -

You didn't see anyone open the folder?---No.

40 Can I take you to some evidence that you gave to the Commission on 2 December, 2016, Mr Azzi. I'm going to read it out aloud to you. If you could listen to what I read out to you, please, and then I'll ask you some questions about it.---Yeah.

Question, "When did you first meet Mr Stavis?" Answer, "Well, I met him, actually, the first official meeting was when I interviewed him but I met him once before." Question, "You met him before you actually interviewed him?" Answer, "Yes. It happened in a café. We had a coffee." Question, "What was the café?" Answer, "I remember it's in Marrickville somewhere." Question, "And had Mr Stavis actually applied for a job with council at that point?" Answer, "Mr Stavis, he was intentioned to apply and

I think, look, I cut it short with him, said, 'I can't discuss these issues here.' It's happened to be there." Question, "Who arranged the meeting?" Answer, "I have no idea. Somebody arrange it because we'd been invited to the café without any notice." Question, "Who invited you to the café?" Answer, "I received a call. Michael said, 'Let's have a coffee down there.'" Question, "From Mr Hawatt?" Answer, "Yeah." And question, "Did - - -" Answer, "So, all right, let's go." Question, "Did Mr Hawatt tell you why he wanted to meet you for coffee?" Answer, "No, no. He didn't, no. I said I don't know one of his friends going to be there. I don't know all his
10 friends." Question, "Did he tell you the name of the person who was going to be there?" Answer, "No, no. Maybe he didn't know. I don't know. I can't tell. He didn't tell me who we're going to meet." Did you hear me read that evidence out aloud, Mr Azzi?---Yes.

That account that you have given today about the circumstances in which you came to go to the café and why is different from what you told the Commission on 2 December, 2016, isn't it?---What's different in it? It's
- - -

20 You can't - - -?---That's what I can't remember at the moment .

You can't see any difference?---I can't see any different what I can remember at the moment. Maybe it's, it's two years from what I said two years ago but I can't see any difference. Like maybe I can't remember what, what Mr Hawatt said to me at that time. It's two years after. Seeing a friend. Maybe he said that. It could be. If I said this it could be.

Is one of these versions correct, the other one incorrect - - -?---What other?

30 - - - or are they a mixture of correctness and incorrectness?---What, we - - -

What I'm trying to ask you to tell us is are you saying that what you've told us today is the case, is the truth or what you told the Commission on 2 December, 2016 about this meeting the truth?---It could be, what's the truth
- - -

MR PULLINGER: I object to the question put that way.

40 THE COMMISSIONER: Sorry, Mr Azzi.

MR PULLINGER: Commissioner, the way it's put is suggestive of intentionally telling an incorrect version on one or other occasion. It may well be the case that his best memory now is what he's told the Commission today.

MR BUCHANAN: I'd ask my friend not to lead the witness, please.

MR PULLINGER: I'm not leading.

MR BUCHANAN: That is the effect of the submission that you're making and I'd ask you to refrain from it, please.

THE COMMISSIONER: I understand the point you're raising.

MR PULLINGER: You understand. Thank you, Commissioner.

10 MR BUCHANAN: I submit that the question is appropriate and not misleading or confusing in the circumstances. That the witness can tell the court that either the version he gave in December 2016 is the truth, the version he gave today is the truth, or that it's some mixture of the two.

THE COMMISSIONER: I'm going to allow it on that basis. Listen to the question from Mr Buchanan.

20 MR BUCHANAN: Mr Azzi, was what you told the Commission in December 2016 the truth, or was what you told the Commission today the truth on this subject, or was it some mixture of the two?---Mr Buchanan, what I said in 2016 that's what I did remember on that time, and what I've said today that's what I did remember today. If it was, I said this on 2016 that mean it's happened, and what I said today I don't meant to, to change my statement but that's what I did remember at the moment, and what I've said, to me if I said sit down and have a coffee, it might, could happen and, but - - -

Mr Azzi. Sorry, I interrupted you.---And if I forget or I don't remember if I said to him sit down, maybe I couldn't remember what I said in 2016.

30 You see, in answer to the question in December 2016, "Did Mr Hawatt tell you why he wanted to meet you for a coffee?" you said, "No, no. He didn't, no. I said I don't know one of his friends going to be there. I don't know all of his friends."---It could be, it could - - -

And then a little later on you said, "He didn't tell me who we're going to meet."---Yeah, possible. Could be, could be the true, the right what I said before. Possible. You know, I didn't - - -

40 THE COMMISSIONER: But today you've said that you went to admire a building.---Yeah, I remember because at this time as well he mentioned a building. You know, sometimes your memory, I, I didn't mean to, to change my statement, Madam Commissioner, but the, the point of the meeting, it's, it's happen the way I conducted. If I change little bit about what's happened, maybe my, your memory sometimes (not transcribable) discuss. It's come back. But what I said in 2016, it's happened. If I said, it could be the, the truth. It could be, you know, I was right.

MR BUCHANAN: In December - - -?---I'm not - - -

I'm sorry, go on.---It could be right what I said. Councillor Hawatt said to me, "Let's meet with a friend," and that's what I did remember that day. But today my memory may be, after two years I forget, I remember something else.

Can you provide us with any assistance as to why Councillor Hawatt, as you understood it, would not have told you that it was going to be Mr Stavis you were going to meet if he knew - - -?---If he knew.

10

- - - that it was Mr Stavis that you were going to meet? Why wouldn't he have told you?---I don't know. I don't know.

It sounds as if he would have tried to have hidden it from you, the account that you gave in December 2016.---I, I don't know. I, he didn't say anything to me, Councillor Hawatt.

20

Did you say anything to him afterwards? "Why didn't you tell me that we were going to meet with one of the candidates?"---I did ask the question. He didn't answer the question to me. He didn't said, he didn't answer the question. I said, "What's going on?" Said, "We did, it's what we can do. Did nothing wrong. We walked away." That's what he answered. I said, "We didn't promise him anything. We didn't say any word to him and we walked away." And I was, thought this is normal and I didn't take any effect of it because I turn my back and I walked away. I didn't recognise this meeting. And for my point, when something I'm not interested in, I don't recall it or I don't take notice of it. I'm not interested about this meeting. That's why I didn't take any notice or remember everything what's happened because I wasn't interested at all about what's happened there.

30

Today you told us that you sat there while Mr Hawatt and Mr Stavis talked, and you didn't take part and you just listened to what was being said and thought to yourself something to the effect of, "I'm not going to pay any attention to this." Is that right?---Yes.

In December 2016 you told the Commission, "Mr Stavis, he was intention to apply and I think, look, I cut it short with him. Said, 'I can't discuss these issues here.' It's happened to be there."---Yeah.

40

That's a different version from what you told the Commission today about your role in the exchanges with Mr Stavis at that meeting, isn't it?---Oh, it could be, it could be I said that, yeah, it was right, but I forgot about it this time.

Well, is one of those versions correct or is neither of them correct?---No, no, no. One of them must be correct.

Yes. Which one?---I think if, the first one must be correct.

Why the first one?---Because I, it's been, it's a short period. I could remember more better. But now after five years, whatever, three, four, five years, my memory will, will collapse little bit.

You've given to the Commission today evidence that was false or misleading, haven't you, on this subject?---No. No, I, I didn't meant this, no.

10 And you've given that evidence knowing it to be untrue.---No.

Or not believing it to be true, isn't that the case?---No, no. I'm try to tell the truth, what I can remember.

Did Mr Stavis try to sell himself to you and Mr Hawatt at this meeting as a good person to appoint as director of planning?---What I can remember now, I don't know. But what I said before could be the truth. I, I don't remember what's happened at that meeting at this time.

20 THE COMMISSIONER: See, in December 2016, you said, "Mr Stavis, he intended to apply. I think, look, I cut it short with him. Said, 'I can't discuss these issues here.'" Now, that suggests that Mr Stavis was saying something to you about issues and that you started feeling a bit uncomfortable and stopped it, doesn't? That's what that answer suggests. ---Madam Commissioner - - -

Do you agree with that?---Yes.

30 All right. So, what was he saying to you?---What I said before, Madam Commissioner, I said Mr Stavis come in and he said he applied for the job in the council and then he said something, and what you said, Madam Commissioner, what you said now, it, it's happened because what I am trying, trying to say at the moment, what I can remember. I cut it short and I was said - - -

I know. I know that.---Yeah, I didn't say any word - - -

40 But you had to, you cut him short after he had said something dealing with, I can't discuss these issues here. Now, Mr Buchanan said to you, did he sell himself to you as a, you know, a good candidate for the director? That suggests that he went on and might have said something else about, you know, you've had some planning problems in Canterbury or you, you know, LEP's at fault or - - -?---No. I don't remember.

Nothing like that?---I don't remember if we went that far, Madam Commissioner. What I could remember now at the moment, I don't know what I said in 2016, I didn't review it, but what I can remember, Mr, I knew Mr Stavis is, he, he said, "I'm applying for the job," and what I can remember, cut it short for him. I don't know how far he introduce himself

but he said, "I'm applying for the job." I do understand what he's up to and when, how long it took me to cut it short, two minutes or three minutes or how far we went with his explanation. Now, at, at this stage, I can't remember.

All right. You just said that you understood what Mr Stavis was up to.
---Yes.

10 What was your understanding of what Mr Stavis was up to?---He's, he's trying to tell us, he's running for the job as a director.

So, he was trying to influence you?---Well, I don't know what he, I don't know what he's after, this he wasn't to sell himself or get a, like, show up what his, his intention to and this what happened and my role, I said, what I said before, I said, just cut it short and I didn't promise anything. I will see you later on. And that's what, what, I can't remember Madam Commissioner. And because - - -

20 What you're saying to me, you're now saying that you cut it short. You must have felt very uneasy. Is that what you're saying, that you weren't comfortable with the idea of this man just coming up to you?---I express my view and I said, I wasn't - - -

No, no, no. But I'm asking you, is your recollection now, I felt uncomfortable, I didn't think this was appropriate?---Yeah, well, I felt something like, I wasn't comfortable, you know. I wasn't sure if I'm doing, you know, we should, like, talk or don't talk or just say hello or not say, I, I wasn't, like, comfortable to discuss further than he introduced himself. I, I wasn't like, willing to go further. I wasn't feeling like I'm wanting to hear any further what he said.

30 MR BUCHANAN: Did you think there was something wrong about what was happening with Mr Stavis sitting at the table with you and Mr Hawatt, talking about why he would be a good candidate for the job or director of planning at Canterbury?---At the, at the beginning, I don't think I thought this was wrong but I don't, when I thought, I said I don't like to discuss anything when I don't like to discuss it.

40 Why?---Because it wasn't the right place to discuss this. My opinion - - -

What was wrong with discussing such things at the coffee shop, the three of you?---I don't, like, I didn't feel like I want to discuss it.

Yes, but why?---Because I don't feel like. I don't like it.

What made you uncomfortable?--- I felt like, uncomfortable. I don't, I felt like I'm not comfortable.

You knew it was the wrong thing to do to be talking about his candidacy whilst you and Mr Hawatt were, the next day, to be members of the panel interviewing him for the job, didn't you?---No, I didn't know it was legal or illegal. I didn't know about if it's right or wrong.

And that's why you've tried to tell us that you felt uncomfortable, and that's why you've told us that you cut him off.---I felt uncomfortable because I felt uncomfortable, not because I'm doing, like, it's right or wrong.

10 In fact what happened is that you and – I'll withdraw that. Did Mr Stavis have a cup of coffee?---I don't know. I don't remember.

You were having a cup of coffee?---Yeah, yeah.

And Mr Hawatt was having a cup of coffee?---I think so. Yeah.

And wasn't Mr Stavis having a cup of coffee as well?---I don't know because we been before. I don't know if he had a coffee or not.

20 THE COMMISSIONER: But he sat down, didn't he? You've given that evidence. He sat down at the table.---Yeah, well, he sat down. I don't know if he, if he order his coffee or not. I remember we, I had my coffee, but - - -

MR BUCHANAN: Did you in effect interview Mr Stavis? Very short one, but interview him about what sort of candidate he would be for director of planning?---Where?

At the coffee shop at Marrickville on 16 November, 2014?---No, no, no.

30 Did you and Mr Hawatt ask him questions about his planning philosophies? ---I don't remember I ask him any question. I don't remember. I didn't ask him anything.

Did Mr Hawatt indicate to you and Mr – I do apologise, Mr Azzi, my mistake. Did Mr Stavis indicate to you and Mr Hawatt that he considered himself a solutions kind of guy as a planner?---Not at this time. We didn't go that far. No, no, I didn't - - -

40 Yes, go on.---No. I don't remember we had any discussion, you know?

Did you and Mr Hawatt tell Mr Stavis that you had heard good things about him?---No. I never made any inquiry about him.

Had you heard good things about him from Mr Vasil or Mr Khouri or from Mr Hawatt?---No, I didn't, I didn't discuss anything about Mr Stavis with anyone before.

There was this folder there you've told us about.---Yes.

Is that right? Could the witness be shown volume 3, page 180. Just enlarge that a little bit. This is the front page of the papers that the evidence before the Commission shows that you were sent, as was Mr Hawatt, a few days before the interview panel was to meet, which was 17 November, 2014. And the number of pages goes in this volume from 180 to 214, so it's a few millimetres thick. Do you see that? Do you understand that?---No.

10 I'm just asking you to accept, sorry. I appreciate now you can't see that on the screen. But I just ask you to understand that if we went from page 180 in volume 3 through to 214, we'd be going from the front page to the back page. Do you understand?---From the front page to the back. I can see only one page.

To the back page. Sorry, yes, I understand you can only see the front page. ---Oh, yeah, yeah, yeah.

20 But what I'm asking you to accept is that is page 180 and the last page is 214 in this volume, and that's two or three millimetres worth of paper.---Yeah.

And can you see that there are these marks on the screen down the left-hand side?---Yeah.

That is black plastic ring binding that held all of these pages together, and that's how it was sent to you when you received it from council, isn't it? ---Yeah, yeah.

30 And one of those volumes – that is to say, either yours or Mr Hawatt's – was put on the table in front of Mr Stavis, wasn't it?---My?

I'm asking you, one of these volumes, either yours or Mr Hawatt's, was put on the table in front of Mr Stavis at the meeting at the Victoria Yeeros café in the evening on 16 November, 2014, wasn't it?---No. I didn't see this one on the table. It was a different folder.

And the second page of this collection of papers that was ringbound was the suggested interview questions. This is page 181. Yes, 181 on volume 3. Do you see that?---Yeah.

40 And did you or Mr Hawatt show to Mr Stavis this second page of that collection of black plastic ringbound papers?---I didn't have any folder. I didn't, I didn't give it to him. No, no, sir.

Yes. If it was Mr Hawatt's then did you open it up and show Mr Stavis the second page, the suggested interview questions?---Can you repeat the question, please.

Yes, certainly. If it wasn't yours, did you take hold of Mr Hawatt's copy of this bundle of papers and open it up and show Mr Stavis the second page, the suggested interview questions?---Me take hold of?

Mr Hawatt's copy.---No, I didn't take anything.

Did you show this page, the suggested interview questions page, to Mr Stavis at the Victoria Yeeros café at Marrickville on 16 November, 2014?---No. No, sir.

10

Were you present when it was shown to him?---No, I haven't seen anything. I didn't, I didn't, I didn't see anyone, I didn't see it. I didn't remember I've seen anyone show it by me or Councillor Hawatt. I didn't, I didn't remember.

And Mr Stavis said to the two of you after having a look at that page, "Can I take a photo of it?" He might have also said please but he asked, didn't he, whether he could take a photo of this page, suggested interview questions? ---No.

20

And what you and/or Mr Hawatt did was said something to the effect of sure, of course you can.---No.

And what Mr Stavis then did was take photos of that page with his camera on his phone, didn't he?---I didn't see anything.

30

And if we could go back to page 177 in volume 3, please, and just have a look at 177, 178 and 179. This is page 177 in volume 3 that's before the Commission. Page 178 is in front of you now and page 179 is in front of you now. Can you see that they're three photographs that were taken of Suggested Interview Questions, Director (City Planning)?---Yes.

Can you see that that's the same page as with the page in the papers that the evidence before the Commission shows was sent to you and Mr Hawatt before this date?---Yes.

40

Now, I'll just ask you to accept the two preceding pages, 175 and 176, are two pages of technical information, it's called metadata, about photographs taken from Mr Stavis's phone, and it's about these three photographs, and what that metadata shows is the time and the place where these photographs were taken, and the metadata shows that the date that the photographs were taken was 16 November, 2014 at 6.37pm in each case, the case of each of these three photos. Do you understand that?---(No Audible Reply)

Do you understand that the time is recorded there?---Yeah.

And I just ask you to accept from me that there is also metadata on these photos that says where they were taken, and the location where they were taken was the Victoria Yeeros café. Do you understand that?---Yes.

And if you have a look at the background that is at the top of the photograph, the first of the photographs, page 177, volume 3, you can see that the pattern that is on the surface that appears to be behind this document looks like part of a café table. You can see that, can't you?---Yeah. I can see it.

10

And finally, just keeping on this particularly photograph, you can see that it is part of a black ringbound collection of documents that is of some depth. You can see it's some thickness, can you see that?---Yeah.

20

So, you can understand, can you, that the evidence before the Commission shows that Mr Stavis took these photos of the suggested interview questions from the folder that either you or Mr Hawatt had with you at the time you were talking with him, shortly after you had started meeting with him at the Victoria Yeeros café, Marrickville, on 16 November, 2014? Do you understand that?---Yes. I didn't - - -

That tends to suggest that the evidence that you have given us about what happened or what didn't happen with Mr Stavis is untrue to your knowledge, doesn't it?---No, it's not untrue.

It contradicts the account you've given, doesn't it?---No.

30

Why doesn't it contradict the account you've given?---Why? I, I, I don't understand that, what the question? I've seen these photos on the table here. Yeah.

Is there anything you want to say about it?---You asked me a question, I've seen this - - -

I'm asking you is there anything you want to say about it?---What, about what?

About these three photographs?---Yeah, what the question?

40

Is there anything you want to say about them compared to the evidence you've given about nothing like this happening?---No.

Very good. Now, you and Mr Hawatt deliberately gave Mr Stavis preferential treatment in his candidacy for the position of director of planning at Canterbury by showing him that page and allowing him to photograph it, didn't you?---No.

You knew that it was the wrong thing to do, to show him the suggested interview questions, didn't you?---I didn't show him anything.

Would it have been the wrong thing to do if you had done it?---I won't do it, I didn't do it.

Why not? Why wouldn't you do it?---Because I, why I have to show him this? I, I don't - - -

10 Do you think it would be the wrong thing to do to show a candidate for a job the questions that you, the interview panel member, might be asking him the next day?---I don't know.

That might be all right, might it?---I don't, I don't know. I haven't asked myself this question and I'm not, I don't, I don't know. I didn't show him anything and I didn't see him seeing anything.

20 You see, the evidence before the Commission is that you did, with Mr Hawatt, show him the questions and then give him an opportunity to photograph them the day before the interview panel sat, of which you two were to be members and he was to be a candidate, which strongly suggests that you wanted him to succeed as the preferred candidate for the job?---No.

You understand that that is the inference that logically follows from evidence, that someone has shown a candidate the questions before they're asked them?---No. That is not my intention to, to give him anything or show him anything. I didn't see, I didn't, I didn't see anything, like, what you're saying has happened.

30 And if it is the case that you and Mr Hawatt showed him those questions and gave him the opportunity of photographing them before the interview panel sat, then the question is, how did you find out that Mr Stavis would be a candidate that you should prefer, that you would want to prefer as at 6 o'clock on 16 November, 2014?---It's too long this question. What the question, sir? Please can - - -

40 Well, you see, the evidence tends to suggest that before 16 November, 2014, you had had some information about Mr Stavis that made you think this man is a man we should talk to before the interview and try to help succeed in the interview.---No.

And the question that then arises is, what is the information you got and where did you get it from?---No. It's not true.

This was a Sunday, 16 November, I'd ask you to assume.---Sunday?

Yes, Sunday, 16 November. You met on, the panel convened on a Monday.---Yes.

17 November. Did you meet any other candidate for the job of director of planning before the interview sat on 17 November?---No.

Did you provide any other candidate with access to the suggested interview questions?---No.

10 Is it possible that it was Mr Hawatt who had the folder of papers that you and he had received and it was he who put them on the table and showed the questions to Mr Stavis and then eventually took the pages, the ring-bound pages, back?---I don't know how could this happen. I have no idea, sir.

It'd be fair to say, wouldn't it, that you, by 16 November, were trying to skew the process of the selection of the director of planning in order to favour Spiro Stavis?---It's not correct. Not correct.

And you had agreed with Michael Hawatt to do that, hadn't you?---No.

20 And the reason, I suggest, that you had agreed to do that and were trying to do that was because you thought you would be able to control Mr Stavis, you would be able to easily or more easily influence him as director of planning than other candidates.---No, it's not true.

And you also thought, I want to suggest to you, that his planning philosophies were more in keeping with your planning philosophies. That is to say, to try to help developers to be pro-development and, where developers' projects came up against planning controls, to try to work out a solution so that the developer's project can proceed.---This is one question?

30 Yes.---I didn't have any discussion about – no, no, sir, no.

And you weren't trying to help Mr Stavis for that reason?---No. I never meant to help no one before the interview.

And I want to also suggest that by showing the interview questions to Mr Stavis beforehand or agreeing that he should be showed them, you were putting Mr Stavis under an obligation to you should he be successful.---No.

40 And furthermore, that obligation that you were putting him under toward you and Mr Hawatt was secret. That is to say, it was confidential to you, Hawatt and Stavis. No one else knew.---No, no.

I note the time, Commissioner.

THE COMMISSIONER: All right. We'll adjourn for the day and resume tomorrow morning at 10 o'clock.

THE WITNESS STOOD DOWN

[4.00pm]

AT 4.00PM THE MATTER WAS ADJOURNED ACCORDINGLY

[4.00pm]