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INQUIRY INTO THE CITY OF PERTH

PUBLIC HEARING - DAY 89

FRIDAY, 16 AUGUST 2019

INQUIRY PANEL:

COMMISSIONER ANTHONY (TONY) POWER

COUNSEL ASSISTING:

MR CHEYNE BEETHAM

MR PHILIP URQUHART

COUNSEL APPEARING:

MS JENNIFER SOLISS, with Ms Celeste de SAINT JORRE (Ms Barbara MOYSER)

.16/08/2019

HEARING COMMENCED AT 10.00 AM:

5 COMMISSIONER: I will begin with an Acknowledgment of Country. The Inquiry into the City of Perth acknowledges the traditional custodians of the land on which it is conducting this hearing, the Whadjuk people of the Noongar Nation and their Elders past, present and future. The Inquiry acknowledges and respects their continuing culture and the contribution they make, and will continue to make, to the life of this City and this region.

10 Mr Beetham.

MS Barbara Mia MOYSER, recalled on former affirmation:

15 MR BEETHAM: Sir, I will continue with the examination of Ms Moysen this morning.

COMMISSIONER: Yes, please.

20 MR BEETHAM: Ms Moysen, you might recall yesterday afternoon we left off looking at this document on the screen, do you remember that?---Yes.

Hopefully you can see behind the red numbers at the top, that's dated 27 February 2018?---Yes.

25 Madam Associate, if you could now please go over to 7276. Just going forward a little bit in time, Ms Moysen, to 8 March. Do you recognise that document?---Yes.

Is that another one of your notes?---Correct.

30 Relating to the review process of the tender we are dealing with today?---Yes.

That's a meeting you had, or a note of a meeting you had with Mr Dunstan, is that right?---I don't know if it's a meeting or a phone call, I don't recall specifically, but they are my notes.

35 Of a conversation with Mr Dunstan?---Of a conversation, yes.

But you don't recall whether this is in person, on the phone or - - -?---No, I don't.

40 You will see in this note towards the bottom - at the very bottom, actually, you've made a list of, I think, four things?---Yes.

Can you just tell me what each of those say?---So, "Own scoring", I think - I'm not too sure about that first word but I think it might be "own scoring."

45 Do you know what that means?---Can I just read the rest of that note?

Yes, take as long as you need?---I'm not too sure what those four points related to, whether that was to do with the technical aspect, the technical assessment that was being done by David.

5 David? Surname? Was it Shenton?---Shenton, from Shentons, sorry. I can't remember his surname but it was from Shentons - - -

Could it be Watson?---David Watson from Shentons commercial or Shenton Aquatics.

10

So his name as Dave Watson?---His name was David, I don't remember his last name, sorry.

15 You will see the next one I think is says, "Observation on panel scoring"?---Mm hmm.

"Technical aspects comments", for the third?---Yes.

20 And then, "Allegations"?---Mm hmm.

Is that a reference, do you know, to the allegations contained in the CCC letter and the Hydroquip legal letter?---I'm not too sure if it was for both or just the one.

25 But do you think it has something to do with one or the other?---Yes.

You will see above those four dashed points there's a line you've scored across the page?---Yes.

30 Does that indicate anything to you? Is this a different meeting or - - -?---Not that I remember. Ordinarily in that circumstance, if I had drawn a line, it might be actions or follow-ups or something that's been requested.

35 Looking at that list, does it suggest to you or can you recall whether there were any actions or follow-ups dealing with those items?---I cannot see in my notes that's specifically relating to the technical assessment but I did have a conversation with Wade around the technical assessment and his weighting on that information.

From the Shenton Aquatics firm?---Correct.

40 The allegations though, the final dash point, "Allegations", that's not a technical assessment point, is it? That's a point about the allegation made in the CCC letter?---Yes.

45 So is it correct then that the reason you noted that on this file note is because you discussed the allegations with Mr Dunstan?---In regards to the technical assessment, so David's technical assessment and impact on the allegation.

Is that what you think that means?---That's what I'm thinking, yes.

So you would have discussed with Mr Dunstan the impact of the Shenton Aquatics work on the allegations?---He wanted to understand the technical assessment.

5

In order to assist him to deal with the allegations?---That I'm not 100 per cent sure about. I don't remember that part.

10 Do you have an independent recollection of this meeting at all on 8 March?---Not really.

Madam Associate, could you please go across to the next page. You see, Ms Moyser, this is also dated 8 March 2018?---Mm hmm.

15 It says, "Dave Watson" at the top?---Yes.

Is this a different meeting to the one we just looked at or a different conversation?---I think so, because I've listed them both on separate pages.

20 Do you know who Mr Watson is?---So Dave Watson is from Shenton Aquatics or Shenton Commercial.

Take a moment to read that page?---Yes.

25 You will see on the third point from the bottom, you've written, "Allegations letter, 11.3, incomplete"?---Yes.

And then there's - I think it's an asterisk next to that?---Yes.

30 Do you have an independent recollection of this meeting?---I recall having discussions with them but I don't recall this specific - - -

35 When you say "discussions with them", who are you talking about?---David and Wade. Obviously I've met with them and I've spoken with them. Whether this was an in-face meeting or phone, I think it was over the phone.

Okay, but you don't have an independent recollection of this?---Not more than what my notes are here. I can recall the conversation around these notes.

40 The reference to "allegations letter", does that suggest to you that you spoke with Mr Watson about the allegations letter?---That the information that was sent to David Watson included the allegations letter.

45 And that's letter from Hydroquip's lawyers?---That's the allegations letter from the CCC and the attachment, is my recollection, yes.

Why was that sent to Shenton Aquatics?---At his request, as part of his assessment,

to have an understanding of what the City was looking at.

So the City was looking at, am I right, at this point in March, the allegations made in the CCC letter?---Yes.

5

And the allegations made in the Hydroquip letter?---I don't recall that being the area that the City needed to look into. My understanding - - -

Can I just interrupt you for a moment there?---Sorry.

10

When you say you don't recall that being the area that the City needed to look into?---Yes.

What do you mean by that?---The allegation that came to the City was the CCC allegation.

15

Yes?---That was the allegation that was, from my understanding, the focus or the focus of what the City needed to address.

20

So on 8 March, in and about that time, your understanding was the City needed to address the specific allegation in the CCC letter?---Yes.

But am I right then in thinking that your view was that they didn't need to deal with the allegations generally that are in the Hydroquip lawyer's letter?---No.

25

You will see the reference to, "11.3, incomplete", do you know what that's a reference to?---Part of a letter, 11.3 in a letter.

Just so we are clear, do you think that's the letter from the lawyers or the letter from the CCC?---I think it's the letter from the lawyers because I don't recall there being numbering in the CCC letter.

30

If it's the numbering in the letter from the lawyers, why was that the subject of some discussion with Mr Watson if at that point your view was they didn't need to look at those things?---I think this is in response to the information that was sent to Dave and it was a complete part of it. So the CCC letter and that as context was all sent.

35

I appreciate that, but why would you note here that 11.3, in this letter, is incomplete?---This has been sent to him and he's indicated to me that he didn't receive that part.

40

Does the asterisk mean anything significant? Is there a reason you've put that there?---I don't know but I'm assuming to send it as a follow-up.

45

To send what?---11.3, or the missing documentation that he's indicated.

Did you say to Mr Watson, "Oh well, that doesn't matter, you don't need that because you're not looking at those allegations"?--I don't remember saying that.

5 What I'm trying to just understand is why that letter matters at all if at that point in time your view is, you only need to look at the CCC?---I don't have an answer for that. It was part of the original letter and it was in a document that went altogether.

10 Madam Associate, would you mind turning up the document at 2869, please. Sorry, sir, the TRIM reference for that file note we were just looking at is 22741.

COMMISSIONER: Thank you.

15 MR BEETHAM: And the TRIM reference for the document we are about to pull up is 16201.

COMMISSIONER: 16201?

20 MR BEETHAM: Yes, sir.

COMMISSIONER: Thank you.

25 MR BEETHAM: You will see this is the letter from Morgan Alteruthemeyer, Ms Moyser, do you see that?---Yes.

This is what we keep calling the legal letter to the CCC?---Yes.

30 Madam Associate, if you could just go forward in that document, please, to 2873 - 2872 first, sorry, Madam Associate. I will just draw your attention to the bottom of this page, Ms Moyser. You will see it says, "Conclusions, 11.1, 11.2"?---Yes.

Madam Associate, if you go to the next page. You will see it just skips to 11.4?---Yes.

35 So you will see there's no 11.3 in this letter?---Yes.

Does that refresh your memory at all as to what this discussion might have been about?---No.

40 No? Do you have any recollection of discussing the absence of 11.3 from this letter?---No.

45 And you have no recollection, I think, of saying anything to the effect that it doesn't matter in any event because you're only looking at the CCC material?---No.

Would you agree with me or are you able to agree with me based on your recollection, that Mr Watson at least was interested to see that allegations letter

and to see if anything was missing from it?---Yes.

5 So he may have had the view at that time that it was relevant to the exercise he was conducting?---I don't know if it was relevant, that would be his information but he's asked - he's obviously received the documentation and noticed that there was an incomplete section that he's followed up with me.

10 That's not something - you don't independently recollect him asking you those things though? Is that something you're just inferring from the content of this file note?---Yes.

Around this time, were you also meeting with Mr Ridgwell?---Yes.

15 Can you recall how many times you met with Mr Ridgwell?---Not by number.

Can you give me an estimate? It doesn't need to be precise?---Generally, I would provide updates to him in relation to progression or information.

20 What would those updates involve? Would that just be, you'd drop by his office and tell him what was going on?---Yes, could be, or he'd drop by my office, or we would have a meeting around what the status was, where we were at in terms of timeframes

25 [10.15 am]

As best as you can recall, do you independently recollect him dropping by your office or you dropping by his office to give an update in relation to this matter?---No. It's not unusual, not just in this context, that that occurs.

30 Mr Ridgwell's given some evidence to the Inquiry that, I think, he's two doors down from you in the City's building, is that about right?---He was at the time.

He was at the time?---Yes.

35 Did you regularly see each other in the halls of the building?---To access his office, there's two ways to be accessed.

40 Yes?---One is to walk through HR past my office towards his office and the other way is independently which he would bypass HR, if he would go through the - - -

He would go the other way?---Yes.

45 And did you have any reason, other than for seeing him, to go towards his office?---Sorry?

You said there were two ways to reach his office?---Yes.

I assume there are two ways to reach yours. You could keep going, you could go the long way around and walk past Mr Ridgwell's office?---Yes.

5 Did you ever have cause to regularly go past Mr Ridgwell's office?---If I was going to Robert Mianich, the Director, or the CEO, or the CEO's PA, that all sits at the back of the floor.

So to get to them you've got to walk past Mr Ridgwell's office?---Yes.

10 Is that something you did regularly at this time in 2018?---I'm not sure.

Just so I'm clear, you don't have an independent recollection of going to Mr Ridgwell's office just to drop in and update him on the status of this review?---Not an independent recollection, no.

15 Do you have any independent recollection of sitting down and having a meeting with him?---Generally, if I'm having a meeting, I do tend to have my notebook with me and I'll write notes.

20 Yes?---But I don't have my notebook with me all of the time if I'm walking past or
- - -

25 I understand that but what I'm just wondering, and I'll take you to some notes in a moment but to the best of your recollection, can you identify times when you sat down with Mr Ridgwell in your office or his office or somewhere else, to talk about this tender and this review?---Can I recollect that that occurred?

Yes?---Yes.

30 Can you recollect how many times?---No.

Can you tell me where that occurred?---It may have been a walk past my office and he's come into my office to talk about something else, and then we discussed the update in regards to this, but I don't remember.

35 So you can recall it happening - you know it happened?---Yes.

You just don't know how many times?---No.

40 Where, when? Can you recall the detail of any of those meetings?---Generally updates on where things were at or information that I had received.

How did you provide those updates to Mr Ridgwell?---Some verbally, some maybe via email, I'm not sure.

45 Did you take any material with you to these updates?---From Dave and Wade?

Yes, from either of them or from your own materials?---From my notes, reading off my notes or emails received if - to forward them on to him, potentially.

5 Do you have any recollection of going into any of these meetings with drafts of the report that was being prepared by Stantons?---I can't remember if I emailed him the draft or forwarded him the draft and then went in with my notes or whether I had put my notes on and scanned it in and then sent him that, that I don't remember.

10 It seems like it's implicit in what you're saying though, and correct me if I'm wrong, that you're not sure how the report got to Mr Ridgwell but you're confident that at some point you did send him a, or a number of versions of the report?---Yes.

15 And do you recollect doing that?---Yes. I thought it was via email. So once I received the report via email, I would forward it on if it hadn't already gone to him.

Do you remember how many times you did this?---I don't, no.

20 Do you remember if you did this consistently throughout the process or whether it would have been towards the start or towards the end?---I don't remember exactly. I think when the report originally came in, I sent it to him. I know I made notes on the report and discussed that - we discussed that in terms of my comments and his comments, and then I think I went back to Wade with those comments.

25 Can I ask you about that point you've just mentioned? When you say you discussed with Mr Ridgwell his comments and your comment?---M'mm.

30 Are you talking then just general commentary in a conversation, or are you talking about comments on the document?---So my comments on the document and his comments around his feedback on the report or the draft report.

Yes?---So both, I guess, to answer your question.

35 Did he, to your recollection, ever write comments on the report itself, either electronically or with a pen?---That I don't remember. I may have added comments to my document but that I don't know.

40 Do you recall taking hard copies of the report into a meeting with Mr Ridgwell at any time?---Yes, I think I did, with my handwritten notes. I took that as a hard copy.

Did you take just the one copy for yourself just to talk to?---Yes.

45 So you didn't take a copy and give it to him?---I don't remember taking two copies, no.

So do you have no recollection of giving him a physical hard copy, is that correct?---No.

So - - -?---So yes, that's correct.

5

That's correct?---Yes.

So the only copies that he would have received from you would be electronic copies?---I think so, yes. I don't - I'm just trying to think if I printed off two copies. I don't remember that, specifically printing off two and handing him one. It would be, if I'd received the copy electronically from Wade, it would seem more likely that I would have emailed it to him.

10

Okay?---But that I don't remember.

15

At these meetings with Mr Ridgwell, so we can assume there's at least one meeting, although you're not sure how many meetings you had with Mr Ridgwell?---Correct.

20 Can you tell the Commissioner what you spoke about with Mr Ridgwell?---So - - -

When I ask that question, I'm asking what you can specifically recall speaking about, not what you now assume you might have spoken about?---Okay. Specifically recall discussing the issues or the gaps from adhering to the procedure.

25

So that's the - - -?---Tender Evaluation Procedure.

So the gaps of the panel in adhering to that?---Yes.

30 Thank you. Anything else?---That Wade had indicated that there was no bias to be established, that there were definite deviations from adhering to the procedure, but that wasn't likely to have an impact on the outcomes.

35 Yes?---I remember talking about - because I know there were two procedures. There was a procedure there at the time that they assessed against and then there was an updated procedure already in play at the time that this review took place.

Yes?---And a discussion around any gaps that needed to be closed off in this new - potentially in the new procedure.

40

All right?---Does that - - -

It does make sense?---Make sense? Okay.

45 Did you talk about anything else that you can specifically recall?---I think we spoke about at one point having a meeting, because I organised it with Wade and Kevin from Stantons.

Yes?---To talk about the final report.

5 So that's a meeting after the final report's been provided or around the time of the final report?---Around the same time, yes. I'm not sure if we had received the final and then we had the meeting, or if it was around the time, I don't know the specific dates of that.

Was it near to the time of receiving - - -?---Yes.

10

Anything else?---Specifically relating to the report, sorry?

Yes?---Only around recommendations for the procurement and the tender evaluation.

15

Those recommendations that are coming out of the report?---Yes.

Anything else?---No.

20

No?---Not that I can remember.

25 Do you recall ever talking to Mr Ridgwell about matters about scope, about the scope of what Stantons was engaged to do and what they did?---Only insofar that I had an understanding, because I didn't know, I guess, originally that - my understanding was that the work that they were going to undertake was an assessment of the procedure and if the process the City undertook adhered to that procedure. That was my understanding of probity.

30

Where did you get that understanding from?---From Wade.

35 So you said you did speak with Mr Ridgwell about that?---Yes, because in my notes, I think I was - there was a couple of points, I think, in the report that I didn't understand if that related back to the procedure or if that was something else, but that I do remember.

35

Do you recall showing those parts of the report to Mr Ridgwell or was this a conversation that was a bit more general than that?---No, I showed them to Mark, because I think I wrote on the document to ask those questions for follow-up.

40

You do this motion with your hand?---Sorry.

This is writing with pen?---Yes.

45

Do you still have those documents, the ones with handwritten notes on them?---The report?

Yes. Do you have them in your records at the City, do you know?---Yes, I believe

so.

Where would they be kept at the City?---In Content Manager or in the file.

5 They are in hard copy, are they?---No, they are electronic, they have been scanned in.

I see, so you've handwritten notes and then the document's been scanned in?---Correct.

10

You think they would be stored on Content Manager?---Yes.

Have you seen them recently?---No, I haven't seen them recently but I did see them in the private hearing, so they were shown to me.

15

With handwritten notes?---Yes.

We might come back to that, Ms Moyser. So these are handwritten notes that you made in the meeting or prior to the meeting or meetings with Mr Ridgwell?---Yes.

20

Do you recall - this might be an unfair question, but do you recall what you wrote?---Do I recall what I wrote?

25 Yes. I will put the question this way: do you recall whether you wrote feedback or comments from Mr Ridgwell? Did you record notes of what Mr Ridgwell told you on those documents?

COMMISSIONER: Yes, Ms Soliss, do you have an objection?

30 MS SOLISS: Yes, sir, I think if - - -

COMMISSIONER: Should it be heard in the absence of the witness?

MS SOLISS: Thank you.

35

COMMISSIONER: Should it be heard in the absence of the witness?

40 MS SOLISS: I think it can be heard now, sir. If these documents are available, then I think it's only fair for them to be put to the witness in relation to her recollection of her notes.

COMMISSIONER: Thank you, Ms Soliss. Mr Beetham, I think I know where you're heading but I will hear what you have to say.

45 MR BEETHAM: I missed that, sorry, sir?

COMMISSIONER: I think I know where you're heading but I will hear what you

have to say.

5 MR BEETHAM: There are two responses. The first is certainly in my submission, I can certainly test the witness' recollection without regard to the materials in the first place and if it's assisted by those materials, then we can go to them. The second is, I think there's a real concern from this side of the table at least that perhaps we don't have those documents, the documents with the handwritten notes. Certainly that's the instructions I'm receiving from my instructor and the investigator behind me. It may be that we need to obtain those from the City before we can place them before this witness.

15 COMMISSIONER: Yes. Ms Soliss, you won't be aware of this but the Inquiry has obtained a large number of documents from the City of Perth in the course of its investigation but it cannot be certain that it has obtained all of them.

MS SOLISS: No, sir, of course not.

20 COMMISSIONER: We cannot proceed on the basis that the Inquiry has these documents to which reference is now being made and of course, I'm sure you wouldn't argue with the point that the witness' unaided memory ought to be tested properly.

MS SOLISS: Yes, sir

25 [10.30 am]

COMMISSIONER: If the documents were there and it was fair and only fair to have them in front of the witness, I can assure you that would done.

30 MS SOLISS: Thank you, sir. The witness' reference to the fact that those documents were put to her in the private - - -

COMMISSIONER: There may be a difference of opinion about what those documents were. I was at the private hearing, of course.

35 MS SOLISS: Of course.

COMMISSIONER: As you would expect.

40 MS SOLISS: I understand.

COMMISSIONER: I know which documents were put to the witness so it's not clear to me at this stage whether they are the same documents or different documents, and that's the point that counsel is making.

45 MS SOLISS: Thank you, sir.

COMMISSIONER: Thank you, Ms Soliss. Please proceed, Mr Beetham.

MR BEETHAM: Thank you, sir.

5 Perhaps we can clarify that point with you, Ms Moyser. The documents that you recall being put to you at the private hearing?---Yes.

Were they documents that looked like your handwritten notes like this, like a page?---No.

10

You're talking about the report with handwritten - - -?---The report with my notes in the side or the footer or around the actual draft report.

15 Could it be that the document you're thinking of is a report with electronic comments down the side that you've typed in?---It could be, yes.

I will move on and I will discuss this with my instructor, sir.

COMMISSIONER: Of course.

20

MR BEETHAM: We may seek an order for those documents to be produced, if we don't have them.

COMMISSIONER: Yes, of course, Mr Beetham. Please continue.

25

MR BEETHAM: I will take you to some of your notes now, Ms Moyser. Madam Associate, if you could please go to 7684, TRIM reference 22948?---Yes.

Do you recognise this document?---I do.

30

I just have some questions about this document by way of clarification that I hope you can help me with, Ms Moyser. The first is, you will see at the top it's dated 23 March?---Yes.

35 You see it's, "Meeting", does that indicate to you it's an in-person meeting?---Yes.

And you've written, "Wade Dunstan and David Shenton"?---Correct.

So those two were there?---Yes.

40

You've got Mark Ridgwell's name, you've got it in brackets, what does that mean?---I don't recall whether Mark was at this meeting or not but - or whether it was intended that he was there and didn't turn up or if he came later, I would put that in brackets.

45

Is that your usual practice?---Usually, yes.

So I think you gave us three options there. Is it your usual practice in respect of all of them?---Yes.

5 Do it indicates some uncertainty about whether or not Mr Ridgwell was there?---Yes.

Mr Ridgwell's given some evidence that he wasn't at this meeting?---Okay.

10 Do you accept if he says that, that might be true?---Yes.

So it might be that, "(Mark Ridgwell)" means Mark was meant to come but didn't?---Correct.

15 That's one of those options?---Yes.

Do you have an independent recollection of this meeting?---Vaguely, yes.

Do you recall seeing Mark there?---No, I don't.

20 Do you recall Mark ever being - other than the meetings at the end after the report?---Right.

Or around the time of the final draft report, do you ever recall Mr Ridgwell being in a room with you, Mr Dunstan, Mr Shenton and no-one else?---No.

25 The next question I have for you, if you look at the first - if I can call it a block paragraph that starts - I think it says, "Consensus scoring methodology wasn't done"?---Yes.

30 On the third line of that block there is, in brackets - the whole sentence reads:

Could that have impacted the final score - not likely."

35 ?---Yes.

There are some differences between the handwriting in the brackets and the other handwriting, to my eye?---Yes.

40 Are you able to say with any certainty whether the words in brackets is your handwriting?---I believe that's my writing.

Is it likely that anybody else would have written on your notes?---No.

45 Do you have any recollection of that happening?---In general?

Yes?---Ever? No, I don't remember anyone ever writing on my notes.

So to the best of your recollection that's your handwriting and no-one else's?---Yes. So can I just correct that?

5 Yes?---The only time when someone would write in my notebook is if we are in a process and we are passing notes or comments to each other as part of that process, so a formalised process like a hearing or a conciliation process.

10 So you might write something in your notebook, pass it to the person next to you, for example?---Or someone might lean over and write in my notebook around a comment that's been made.

Are you appearing at these conciliations in a speaking capacity? Is that why somebody's writing on your notes, so that you - - -?---Yes.

15 The same way Mr Parkinson occasionally hands me pieces of paper?---Yes.

Okay, but that's not what's going on in this meeting?---No, no. Just for clarification, just so - - -

20 I appreciate that. Then if we go just below halfway, you will see, " - Simon bias towards Hydroquip"?---Yes.

"And Blake Western Irrigation"?---Yes.

25 Can you explain this to me because my understanding of your evidence to date is that you were told by Mr Dunstan that there was no bias present?---Yes.

So what - - -?---So these are comments made by David from Shenton's. You'll see that I've put DS at the top there.

30 Yes, I see that. So that's indicating everything below that's Mr Shenton?---Correct. Yes, so he's made those comments. I recall David indicating that there was obviously no evidence within the submissions of bias, that the scoring was okay. He then indicated that, or made a comment to the effect of, "People generally have a bias or a" - what did he call it - based on experience and exposure, that they may have a preferred or a - he used the term "bias" because that was what we were talking about, but that it wasn't a bias in the sense of a, like a contrived or purpose - or like a purpose bias. Does that make sense?

40 Yes, I think so. Perhaps I can clarify with you. Are you saying that the bias here means this person might have an unconscious or slightly conscious preference for somebody?---Potentially.

45 But they are not intentionally, purposefully - - -?---Correct.

- - - looking to promote?---Correct, that was my understanding of what his comments were.

And you recall we looked at one of your file notes earlier where you wrote the word "favour", sort of inverted commas?---Yes.

5 I think to represent the same concept?---The same thing, yes.

And that's what you understand Mr Shenton to have been telling you?---Correct.

10 Madam Associate, could you just go to the next page, please. I think this is notes that continue from the notes we have just seen but I just want to know if you could read that and confirm that's the case, please?---Yes, that's correct.

That is the case?---Yes.

15 At the bottom there you will see, "David - gossip"?---Yes.

This is just David sharing some industry views, is it?---Yes.

20 Is that, to your recollection, all that was said?---In regards to the gossip?

Yes?---Yes.

Madam Associate, could we go forward to 7686, the next page, please, TRIM reference, sir, 22948.

25 COMMISSIONER: Thank you.

MR BEETHAM: Ms Moyser, you will see this is a meeting or a note of a meeting you had with Mr Copeman, is that right?---Yes.

30 On 26 March?---Correct.

Can you explain the context in which this meeting took place? Why were you meeting with Mr Copeman?---Was he Acting Director at the time?

35 Does that make a difference?---Only because I've put "one-on-one". Ordinarily I have one-on-one fortnightly catch-ups with the Directors to talk about overall issues happening in the Directorate.

40 To your knowledge, did Mr Copeman from time to time, or had he acted as a Director?---Yes.

So this is in place of Mr Crosetta, is that right?---Correct, yes.

45 We will come back to the first one that says, "Tender process", but if we go down the page, you will see a reference to another person, "Ed" someone?---Ed Lewington, yes.

Who is he?---He is a Parks employee.

So he reports to Mr Copeman?---Not directly but Martin is his manager.

5

Ultimate?---Ultimate, yes.

And Mr Penny?---Phil Penny was a irrigation tradesperson.

10 So he would have some involvement with Mr Copeman as Manager of Parks as well?---Yes, but not directly.

Is he a tradesperson external to the City?---No, employed by - well, employed at the time by the City, yes.

15

He, through a reporting mechanism, is ultimately responsible to Mr Copeman?---Martin, yes.

20 So is it possible then, since you're talking about the tender process and these two gentlemen who were members of the Parks team, that you may have been speaking to Mr Copeman just in his capacity as Manager of Parks?---Yes, it could be.

So can you tell the Commission why you would be talking to Mr Copeman about the tender process and the CCC allegation?---Why I would be talking to him?

25

Yes, why did you, do you recall?---Based on this, and the previous notes, there was a requirement to meet with the Panel Members and as his staff members, to speak to him about that.

30 So the Panel Members you're talking about are the Evaluation Panel members?---Yes, sorry, Blake and Simon.

And Mr Myles, was it?---Myles, I can't remember his last name but Myles wasn't employed by the City any more at the time.

35

I see, but the other two reported to Mr Copeman?---Yes.

So you think you may have been meeting with him to organise those meetings?---Yes.

40

The reference there, "CCC forwarded allegations to City"?---M'mm.

45 You just spoke with Mr Copeman about that, about the particular allegation, do you recall?---That I don't remember, if I spoke to him about the specifics of the allegation.

But it was at that point in time again in March. Is the reason you wrote that in

your notebook because you spoke to him about the CCC allegations?---No, I don't think so. I think the requirement was to facilitate a meeting with Simon and Blake around Wade from Stantons meeting with them as part of the probity component, and that needed to be facilitated.

5

I'm just wondering why you've written, "CCC forwarded allegations to the City" there?---As part of - I'm not sure. As part of the discussion or as part of the reasoning why we are facilitating those meetings.

10 Is it fair to say then by 26 March or on 26 March you still considered that Stantons were looking at the CCC allegations?---Yes.

15 Earlier your evidence was, and correct me if I'm misstating this, that they were only looking at the CCC allegation, they weren't looking at the allegations in the Hydroquip letter, that's right?---Yes.

20 Why is that? Why was it that they didn't look at those allegations in the Hydroquip letter?---I don't know. I think my understanding initially when the allegations came to the City was that was the - the City's requirement was to address that.

Just the precise allegation?---Yes

[10.45 am]

25 Do you recall where you got that understanding from?---In my discussions with Mark.

30 I think your evidence on the last occasion in the private hearing was that this was the first time you would have been involved in something like this, is that right, when you engaged the reviewer to investigate a CCC allegation?---Yes.

And you've not dealt with one since, in this way?---Not in this way.

35 Were you given any training by the City on how to engage reviewers, or independent investigators?---No.

40 You've not had to do that since, have you?---So no training but obviously the process or the requirements around how to - when I say how to engage, where to go. So from a WALGA panel or the State panel to determine where to find investigators.

45 Yes?---And if they are on that panel and it falls below a certain amount, there's no requirement or, you know, the quotation process, that information. It's not so much training but I seek guidance on that from Governance.

But you're not given any formal training, are you, about how to scope the investigation that's being carried out?---No.

Or what information to provide, those kinds of things?---No.

5 Madam Associate, could we now go forward to the document at 7689, TRIM reference 22948, sir.

COMMISSIONER: Thank you.

10 MR BEETHAM: I will just give you a chance to read that, Ms Moyser?---Yes.

So this is a note, isn't it, of a meeting you've had with Mr Ridgwell?---Correct.

Do you recollect this meeting at all?---No.

15 Is there anything in this note that indicates to you whether or not it was held in your office or his office or whether it was a sort of formal meeting or an informal meeting, anything of that nature?---If it was a formal meeting, I would assume I would have had a calendar or diary meeting in my calendar.

20 So there's nothing in this note to tell you one way or the other?---No.

Do you recall showing Mr Ridgwell at this meeting any versions of the draft report?---I don't remember if I showed anything at this meeting.

25 If you look at this note, about a third of the way down the page you will see two items together, "Procedural gap"?---Mm hmm.

And then you will see a reference to "all allegations"?---Mm hmm.

30 What does "all allegations" mean in this note? What are you referring to?---I'm not sure. I understand the "procedural gap" component, but I'm not sure about the "all allegations", what the context was around that.

35 Is it possible that "all allegations" is a reference to the allegations in the letter from Hydroquip's lawyers?---It could be.

You're not able to say one way or the other?---I don't remember specifically, no.

40 There was only one allegation in the CCC letter, wasn't there?---Yes.

So is it likely then that you would have written "all allegations", plural, if you were referring only to the CCC letter?---Sorry, can you say that again.

45 Certainly. There was only one allegation in the CCC letter?---Yes.

There were a number of allegations, plural, in the letter from Hydroquip's lawyers?---Yes.

So when you've written "all allegations", do you think it's more likely that you were referring to the Hydroquip letter and the CCC letter?---Probably, yes.

5 Do you recall talking to Mr Ridgwell about it?---No.

And you don't recall why it's written there?---No. Can I just - - -

Yes, please?---Clarify?

10

Of course?---Normally when I'm writing notes, I'm writing generally what people are saying.

15 Yes?---And usually if there is an action or a follow-up, or I've contributed in some way, I usually mark it to say that's what I've said.

Separately?---I just put my initials next to it.

20 I understand, so that you know what you've said versus compared to what other people have said?---Yes.

Okay?---I'm not generally that good at writing down as I'm talking about.

25 I understand. So "all allegations", you think that's something that Mr Ridgwell has said?---Whether that was as a - this being an update around where the review was at and the question from his part potentially, that I don't know but it would be something that he's indicated.

30 Thank you, Ms Moysen. Madam Associate, could we please go to document 4335, which is TRIM 18069. Do you recognise this email, the one at the bottom of the page, Ms Moysen?---Yes.

Let me know when you've finished that page?---Yes.

35 Madam Associate, if you just go to the page so we can see the end of the email?---Yes.

40 That reference at the end to "Martin and Ramzi will follow this up directly with Western Irrigation ", that's a reference, isn't it, to the requirement to have commercial divers?---Yes."

45 Do you know whether or not Martin and Ramzi followed that up with Western Irrigation?---Not directly. I'm not sure if I recall seeing an email that Martin may have sent to Western Irrigation to follow that up, or a confirmation email that he had done that, that I don't remember - sorry, I shouldn't say I don't remember. I remember something to that effect but whether that was in an email - - -

Do you know how that issue was resolved or whether it was resolved?---No, I don't know how that was resolved.

5 Do you recall taking any steps yourself to follow up with Martin or Ramzi or anybody else about that item?---No. I know it was spoken about and what was required and Ramzi being the Contracts Officer, whether the City needed to put something in place to ensure that that was met, and I know the information came up in the discussions with David around the commercial diving component that I fed back, but I'm not sure how or who followed that up directly.

10 But it seems to me, and let me know if I'm wrong, by this email you had thought that issue, that discrete issue, was the responsibility of Martin and Ramzi, is that right?---Yes.

15 If we look, Madam Associate, back to 4335, the page before, Ms Moyser, you will see your email, "Hi all, thank you for meeting with Wade the other day"?---Mm hmm.

20 And that's a reference to Mr Humble and Mr Pascoe, is it, meeting with Wade the other day?---Yes.

:

25 *The City's currently expecting finalisation of the report to be due next week.*

Then you go on to say:

30 *Once the report is received, we will be able to close out this matter formally.*

Then you say:

35 *However, I am able to share that there are no breaches or any biases evident from the review.*

?---Yes.

40 My recollection of your evidence in the private hearings is that that statement was based on information you'd received from Mr Dunstan?---Yes.

And it was a conversation, I think, you had with him where he conveyed that to you?---Yes.

45 Madam Associate, could you please now go to the document at 6373, TRIM reference 22161.

COMMISSIONER: Thank you.

MR BEETHAM: You will see, Ms Moyser, this is an email from Mr Dunstan to you of the same day?---Mm hmm.

5

The email we just looked at was sent to you - you sent out to the others at 10.12 am. This one you received just after 4 in the afternoon, do you see that?---Yes.

10 You see that Mr Dunstan has attached or refers to an "Attached preliminary draft", of a report?---Yes.

Do you remember receiving this email?---Yes.

Do you remember receiving the preliminary draft?---Yes.

15

Is that the first draft that you received from Mr Dunstan?---I think so, yes.

Madam Associate, you should have hard copies of a document with the Bates reference 6373, a copy of the Stantons' report.

20

ASSOCIATE: 6375?

MR BEETHAM: 6375, I'm sorry. My reference is wrong. 6375. If you wouldn't mind handing copies of those to the Commissioner, the witness and my friend. I'm just handing you this hard copy, Ms Moyser, so it's a little easier for you to follow along, rather than flicking through on the screen?---Sure.

25

I will just wait for your counsel to get a copy. This is the preliminary draft that was attached, Ms Moyser?---Mm hmm.

30

To Mr Dunstan's email, and if you can just flick through that, you recognise that?---Yes.

You recognise that as the preliminary draft?---Yes.

35

Can I ask you then to turn to the first page, the Executive Summary?---Yes.

You will see in the first block paragraph Stantons refers to the fact that their "post process probity audit is based on a letter of complaint received from the CCC"?---M'mm.

40

:

From the unsuccessful's incumbent supplier of services, Hydroquip."

45

?---Mm hmm.

And that's correct, isn't it, that's what triggered the exercise of engaging Stantons?---Yes.

5 Then you will see over the page in the table of contents there's an item 6, "Observations regarding the misconduct allegations"?---Yes.

10 I don't know if you recall, sitting here today, the final version of the report but do you recall that that part of the report is not in the final version?---No, I don't recall it.

15 If you can go over the page then to 6378, you will see, Ms Moyser, that under, "Scope" there are four dot points?---Yes.

And the fourth dot point says, read with the chapeau:

15

The scope of this probity audit was to undertake the following: to comment on the allegations raised by Hydroquip as contained in the complaint from the CCC.

20 Do you see that?---Yes.

Madam Associate, if you could bring up on the screen the document at 6353. I hope I've got that reference right. You will see this is the quote from Stantons that we looked at yesterday?---Yes.

25

And you will see, if you look at the fourth to last item in the first table, it says:

Review and test/explore where considered appropriate the claims made in the complaint to the CCC."

30

?---Yes.

Would you agree with me that's reflective of that fourth dot point?---The fourth bullet point here is - I read that as to be from the CCC, so that's probably my - - -

35

Sorry, what do you mean?---So under, "Scope", it says, "To comment on the allegations raised by Hydroquip as contained in the complaint from the CCC", is referring to the CCC because it's "from the CCC." It reads as the complaint is from the CCC, which is the allegations.

40

So you understand that sentence to mean only the allegation particularised by the CCC?---It's talking about a complaint from the CCC but it's not really a complaint from the CCC, because it was an allegation that the CCC raised with the City

45 [11.00 am]

So what I'm just trying to understand is your understanding of that fourth dot point

because it seems to me to say that Stantons were looking to "comment on the allegations raised by Hydroquip"?---Yes.

Being allegations in their letter?---Yes.

5

As contained in the complaint from the CCC?---Yes.

And I simply read that as meaning, the complaint that's contained in the sense that it's attached to the letter?---Okay, yes.

10

Is your understanding a different one?---No, because it refers to the allegations here but I read the last part incorrectly then.

No, you read it however you need to read it, Ms Moyser. It's not correct or incorrect. Do you recall what your understanding of that was in April when you read that?---No.

15

If I'm right and it's a comment on the allegations in the Hydroquip letter?---Mm hmm.

20

Would you agree with me then that's reflective in general terms of the item in the quote that we just looked at?---Yes.

So on that premise, that consideration is within the scope of what Stantons were engaged to do?---Yes.

25

You look hesitant?---I look - well, I think that Stantons - I don't think the scope was clearly defined at the onset. I think that the City had received the allegation and Stantons was engaged to look into that and provide the information and then, obviously provided the quote and put that into their scope.

30

COMMISSIONER: I don't really understand that. If you just focus on what's on the screen in front of you, just take a moment to read that group of words to which your attention has been drawn. You can see that it makes reference to "the claims made in the complaint to the CCC"?---Yes.

35

The complaint made to the CCC was the one that was made by Morgan Alteruthemeyer on behalf of Hydroquip, wasn't it?---Yes.

So this item here in the scope remit appears to be a reference to the complaints in the Morgan Alteruthemeyer letter, doesn't it?---Yes.

40

And it seems to be saying that those allegations should be reviewed and tested and explored where considered appropriate, doesn't it?---Yes.

45

So does that not make it plain?---Yes.

Do you read it the same way that I'm reading it?---I do read it the same way, yes.

So why was there any confusion then about what the scope was?---That's probably my confusion.

5

Mr Beetham.

MR BEETHAM: Was that confusion that was evident at the time of engaging Stantons? Is that right?---On my part, yes.

10

And confusion that persisted throughout the review process then?---My understanding of Stantons, and based on my discussions with Wade, was that probity audit was looking at the process, the City's process and any deviation from that process and whether that transpired into being able to make comment on the CCC allegation. Wade indicated, from memory initially, that is what probity audit does and that they wouldn't be able to talk to the merit of the submissions in terms of the expertise component.

15

Yes?---So Wade advised to get a technical expert in for that component to be able to assess the actual merit of the four submissions that came in as part of this process. There's a difference though, isn't there, between a process - "process" is a difficult word to use. There's a difference, isn't there, between a review undertaken simply to test the process against the policies in place, versus an actual investigation and consideration of the allegation contained in the CCC's letter, isn't there?---Yes.

20

25

So if they were only conducting the former, the process review, they wouldn't necessarily deal with and investigate the specific allegation made, isn't that right? They may be able to find out things about it on the periphery, but the sort of precise, central issue raised by the CCC was not something that a process review would look at, would it?---That I don't know.

30

If we go over the page from the page in front of you, Ms Moyser, to 6379?---Yes.

35

And just tidy up where we were a moment ago in the questions from the Commissioner, you will see under, "Context" there it says, halfway down the block paragraph:

40

The complaint letter contained an itemised argument to support the claim, including email exchanges between Mr Humble and Hydroquip representatives and excerpts of tender documentation.

That's a reference, isn't it, to the Morgan Alteruthemeyer letter?---Yes.

45

And then they go on to say:

As part of this review, the allegations were considered and where

allegations related to aspects of the evaluation process that fall under the scope of this review, they have been addressed.

Yes?---Yes.

5

So certainly at that point in time, Stantons, consistently with that quote, thought that was within the scope of what they were looking at, yes?---Yes.

10 If you go over the page to 6380, you will see in the table at the top under the heading, "Notable observations regarding the complaint letter to the CCC"?---Yes.

And in item (a), the second sentence says:

15 *However, given the evidence suggesting the evaluation process was flawed, the outcome may be erroneous and the debriefing was lacking rigour. The City may wish to consider referring the matter to the CCC to investigate the possibility of any undisclosed relationship or arrangement between Mr Humble and Western Irrigation.*

20 ?---M'mm.

That's quite a serious thing for Stantons to suggest, isn't it, to refer the matter to the CCC?---Yes.

25 That's something that the City would want to know about?---Yes.

And would probably want to act upon as well, yes?---Yes.

30 And the reason I say yes to you is just because the transcript can't record you nodding. You will see under (b) it says:

It is possible that bias was introduced into the evaluation process. However, it is unclear whether any bias, if introduced, had a material effect on the outcome of the evaluation process.

35

?---Yes.

That's again something that should be of concern to the City?---Yes.

40 Can you explain why it was on 6 April, when you sent that email to Mr Humble and Mr Pascoe, copied to those others, you said that there was no evidence of bias?---Mm hmm.

45 When in this report which you received the same day, later that day, Stantons has quite clearly said it's possible that there was bias introduced?---The communication that I sent out was based on the information I had received from Wade. I appreciate that in the report, that that's conveyed differently.

It's saying something different, isn't it, it's saying it's possible there's bias?---Yes.

Rather than, there's no evidence of bias?---Yes.

5

Did you, having received this report, send out an email to correct your earlier email, to say, "Sorry, I got that wrong, it looks like there might be some bias"?---No.

10 Do you recall talking to anyone, Mr Copeman, Mr Humble or Mr Pascoe, to say, "Sorry, that was" - - -?---Not at that stage, no.

15 Do you have any explanation as to why that didn't happen?---From memory, based on the discussion - the feedback from David and from Wade, we had - I had a discussion with Mark to be able to release that information or be able to provide that as I understand that Simon and Blake were anxious as a result of meeting with Wade. My discussion with Wade, he had indicated that there was no evidence of that and hence, my communication to - - -

20 So the email you sent was simply to calm the nerves of Mr Humble and Mr Pascoe?---Yes.

25 But having then received this report that says something a bit different, did you bring that to anyone's attention?---With what this says?

Yes?---This was the preliminary draft. We then had the discussion, went back to Stantons and I believe we had a follow-up meeting just to confirm Stantons' position.

30 Who did you have the discussion with?---Mark.

So you had a discussion with Mark following receipt of this?---Yes. I'm just trying to think if Paul Crosetta was there.

35 Where did the meeting take place?---I can't remember. I can't remember if Paul was there or not as part of that, in sharing the details of that conversation.

40 Do you remember if you took a copy of the report with you to the meeting?---Of this report?

Yes?---No, but I think I forwarded this via email.

45 Just so I'm able to understand that, when you say no, do you mean no, you don't recall or no, you didn't?---No, I don't remember.

But you think you may have forwarded it by email?---I think I forwarded it by email.

To Mr Ridgwell?---Yes.

5 If I could ask you to go forward in the report to 6387, here you will see the substance of what Stantons have to say under the heading, "Observations regarding the misconduct allegations"?---Mm hmm.

10 You will see in the blue box under, "Observation A", the second sentence reflects the finding A we just looked at?---Yes.

And suggests that the matter should be referred to the CCC?---Yes.

Then you will see in the paragraph that follows that, Stantons write:

15 *We note based on the allegation detailed in the letter from the CCC -*

So that's talking about now the CCC's letter, not the Hydroquip letter?---Mm hmm.

20 :

25 *- for the situation to constitute misconduct on behalf of Mr Humble, Mr Humble must have received some form of personal benefit from the award of the contract to Western Irrigation. It is outside the scope of this review to investigate this possibility, other than to observe whether conflicts of interest were managed appropriately in this process.*

30 That seems to me, and I'm interested in your view on this, to essentially be saying, it's outside the scope of the review to consider the allegation in the CCC letter, is that how you read that passage?---Sorry, can you just ask that again.

Of course. We will take it in turn. If you look at the first sentence of that paragraph:

35 *We note based on the allegation detailed in the letter from the CCC for the situation to constitute misconduct on behalf of Mr Humble, Mr Humble must have received some form of personal benefit from the award of the contract to Western Irrigation.*

40 ?---Yes.

And the allegation in the CCC letter, I will just remind you, is that:

45 *It is alleged that Mr Humble used his position for a benefit by favouring a contractor.*

?---Yes.

So you will see those are two ways of saying essentially the same thing?---Yes.

Then they say in the document in front of you:

5 *It is outside the scope of this review to investigate this possibility, other than to observe whether conflicts of interest were managed appropriately in the process.*

?---Yes.

10

So are they saying there that it's outside of the scope review to look at the allegation in the CCC letter?---Yes.

15 Do you have any reason - can you explain why they might have thought that? Did you say anything to them to suggest that's how the scope should be limited?---No, I didn't say anything to them

[11.15 am]

20 If we go over the page, Ms Moyser, to 6388, if I can have you just read quietly to yourself the second paragraph that commences, "Based on the deficiencies"?---Yes.

You will see there they make the point that:

25

It is possible that Mr Humble has an additional relationship or arrangement with Western Irrigation that he chose not to disclose.

?---Yes.

30

And you will see they go on to say:

That might have been for the specific purpose of perpetrating misconduct in order to gain a personal benefit.

35

?---Yes.

Then they go on to say:

40 *The greatest exposure to the possibility of misconduct would have been through Mr Humble's control over the development of LSFÉ.*

Which I can tell you is lump sum fee estimate, do you see that?---Mm hmm.

45 Quite a serious risk for them to have identified?---Yes.

It's pretty central to the allegation put to the City by the CCC?---Yes.

Something that the City would want somebody looking into that allegation to investigate and express a view on?---Yes.

5 So that the City can respond in an informed and appropriate way to the CCC?---Yes.

If we go down a bit further on the page to the block underneath the italics?---Yes.

10 If I can ask you just to read that paragraph to yourself?---Yes.

Again they are identifying a considerable risk to the City here?---Yes.

15 That Mr Humble could possibly have contrived a fee estimate to ensure a particular outcome?---Yes.

Which is again quite central to what the CCC has referred to the City?---Yes.

20 And they have indicated the City:

Might wish to refer the matter to the CCC to investigate the possibility of an undisclosed conflict of interest.

?---Yes.

25 If you turn over the page to observation B, you will see:

It is possible that bias was introduced into the evaluation process.

30 ?---Yes.

You might recall that's reflective of the conclusion that was in that summary table that we looked at at the start?---Yes.

35 If I can ask you to turn over the page again, you will see observation C in the middle of the page?---Yes.

40 I'm interested in the paragraph above that observation that commences, "In summary"?---Yes.

So that's saying they cannot "conclusively dismiss that Mr Humble" - I retract that, that "any person's individual bias played a role in the outcome of the tender process"?---Yes.

45 And again that's something, if it relates to Mr Humble at least, is again central to whether or not he gained a benefit by favouring a contractor, yes?---Yes.

Something that the City would take quite seriously, is that right?---Yes.

And would want to get to the bottom of?---Yes.

5 For the purposes of responding to the CCC?---Yes.

If you just keep that in front of you and Madam Associate, if you could pull up the document at 6909. You see this is another version of the report, Ms Moyser?---Yes.

10

To the best of the Inquiry's investigation, this is dated somewhere between 16 and 23 May and you will see, if you look at the bottom - I hope you can see if you look at the bottom in very small font it says, "2018/05/16"?---Yes.

15 Which might indicate that it's 16 May 2018?---Yes.

And you will see towards the end it says, "Draft version 1.4, post feedback from BM"?---Yes.

20 Does that indicate that this is a version of the report after feedback from you?---Correct.

If I can ask you then, Madam Associate, to go forward to page 6911. You will see item 6 is still there, "Observations regarding misconduct allegations"?---Yes.

25

Madam Associate, if you could now go forward to 6923, you will see that all of those observations that we just went through are struck out?---Yes.

30 Madam Associate, if you go over to the next page, you will see that's struck out?---Yes.

The next page, Madam Associate, struck out. So all of those things we just went through in the previous version of the report with which you agreed with me were critical to dealing with the allegation from the CCC have been deleted?---Yes.

35

And that's following feedback from you, according to this report?---Yes.

40 Can you explain why all that was deleted?---So from memory, there was a discussion that this information could sit in an appendix, so a reference in the original document and then have them as appendices rather than in the core of the document, from memory, but I'm not entirely sure about that.

45 Who did you have that discussion with?---So my feedback that I sent back to Stantons was based on post discussion with Mark, to feed that back to Wade, and Wade and I - I think we spoke over the phone about that, in relation to it, and then he came back with some further feedback after he had spoken to Kevin, his manager, or who he reported to, to confirm where that should be best placed.

5 Did you discuss with Mark Ridgwell removing all this material and putting it in an appendix, do you have an independent recollection of that?---I don't have an independent recollection of that but that's my recollection of the feedback that went back.

The feedback that you gave to Stantons?---To Stantons, yes.

10 COMMISSIONER: Who provided the feedback to Stantons?---I provided the feedback to Stantons.

MR BEETHAM: Why did you think this should be removed and put in an appendix?---I don't know.

15 I can tell you, there's no appendix to this version of the report containing any of this information, and if it was going to be included in an appendix - you won't find it in that one, that's the earlier version but I can ask Madam Associate to do a page turn, if you like. In fact, Madam Associate, if you go to 6929, you will see here there's reference to appendices at the top?---Yes.

20 And that's, "Detailed probity audit findings"?---Yes.

You will see this is none of - you can have a chance to read that if you like but you will see none of that deals with the material that's been deleted?---Yes.

25 If you go to the next page, Madam Associate, just scan that and if you need time to organise your papers so that you can compare them, the please feel free to do so, Ms Moyser?---Yes. I'm not sure. I know that there was discussion with Wade and Kevin around the final report in a meeting where, I think Mark asked them about that particular component, which is inconsistent with what they provided here, around - sorry, where did you just say that was?

30 Did you tell Stantons, "Delete all that"?---Did I tell them to delete all that? No.

35 Did you do any of the editing of this document yourself to delete it?---When they sent the final report?

No. So you got sent a copy of the document in front of you?---Yes.

40 Which contains the deleted portions in an undeleted form, yes?---Yes.

Did you edit that document in mark-up to strike through all those portions?---As part of giving feedback to Stantons?

45 Yes?

COMMISSIONER: Or at all?

MR BEETHAM: I will take it in turn. So you see the document in front of you?---Yes.

5 That contains all that material we looked at?---Yes.

And that was sent to you by Stantons on 6 April?---Yes.

And then there was a process where you provided feedback to Stantons?---Yes.

10

And is part of that process sending them back a version of the report?---Yes.

When you did that, did you delete those bits?---No, tracked changes in terms of that.

15

Did you track change that?---Yes, I think I did.

I just want to be clear, I understand that. Are you saying you track changed the deletions that we are looking at?---Yes, I think I did.

20

So you removed those portions we have just gone through?---So we had a discussion, Wade and I had a discussion about that in the feedback and I think he said, "Track the changes for what we have discussed in terms of where you want that to potentially sit, or where that needs to be captured" and the discussion around the appendices. So that was the feedback or the tracked changes was a culmination of the feedback, sending back to him.

25

But the physical act of doing the track changes to turn the document from the one in front of you there in hard copy to the marked-up copy we have just seen on the screen, that was done by you?---I think so, yes.

30

I can take you through the rest of the pages of the appendix if you like, but that portion is not transposed anywhere in the appendix?---Okay.

35

Do you have any recollection of doing something like that, copying and pasting it to another part of the report?---No, do not have any recollection of doing that.

Your understanding of the scope of what Stantons was to do, I think, was not to look at the Hydroquip allegations, is that right?---My understanding, yes.

40

Is it possible that you deleted all of this stuff because you formed the view that it was out of scope for what Stantons were required to look at?---That wasn't really my decision.

45

Whose decision was that?---I guess the custodian of this process was Governance and my understanding - and I obviously facilitated the work between Stantons and Shentons to give them the information.

But you did the physical deletion of the material we have just looked at? You did the strike-through, the mark-up?---Yes, I think that was me, yes.

5 But you didn't do that on the instruction of Mr Ridgwell? He didn't say, "Delete that, that, that and that"?---That I don't remember. I know that the feedback going back and putting the changes in was based on discussions with Mark around that.

10 But do you have any recollection of him saying to you, and out of fairness to you, we have spoken to Mr Ridgwell about the changes from that version of the report in front of you in hard copy, to the final version of the report, noting that these passages we are talking about in mark-up have gone. He said he's had no involvement in that, he's never read those passages before. Are you saying his recollection is wrong and that he definitely did see that?---I'm not saying his
15 recollection is wrong, but I can't - it's not my role to make those decisions.

So you don't remember being instructed to delete those portions?---No, I don't remember being instructed, no.

20 But do you think you might have been, because it's not your role to do it?---No, I don't believe - I don't think there was an instruction to do that. I think that my - the feedback and the mark-up was as a result of the understanding and the discussion had.

25 COMMISSIONER: Tell me about that understanding and discussion. What detail can you give me on that that you remember?---So there was discussion with Wade around the process and my understanding - - -

30 Rather than generalise, I would like the detail of the discussion, please?---That the CCC allegation was the primary focus of the work to be undertaken.

Who said that?---Pardon?

Who said that?---Governance.

35 Who?---Mark

[11.30 am]

40 Go on?---And that Stantons' role was in looking at that allegation which my understanding was, and I believe Wade's understanding was to determine if there was a bias by Blake Humble in that tender process, and that the probity component would look at establishing whether that was the case.

45 So someone said all this, did they?---That's what Wade spoke to me about, which is where - - -

Wade said that to you?---Yes.

This is Wade Dunstan?---Yes.

5 Mr Beetham.

MR BEETHAM: I'm wondering, sir, if that might be a convenient time for the mid-morning break?

10 COMMISSIONER: 10 to 15 minutes.

WITNESS WITHDREW

(Short adjournment)

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HEARING RECOMMENCED AT 11.53 AM

MS Barbara Mia MOYSER, recalled on former affirmation:

5 COMMISSIONER: Yes, Mr Beetham.

MR BEETHAM: Ms Moyser, you will recall we were looking at the document in front of you and the document on the screen?---Yes.

10 To try and understand the changes?---Yes.

Your evidence was that the portions that have been struck through that I took you to were struck through by you?---Yes.

15 And your feedback to Stantons?---Yes.

And it's also your evidence, I think, that weren't instructed to do that by Mr Ridgwell, no?---No, I don't think so.

20 It's also the case, isn't it, and it's logical, that Stantons wouldn't have suggested that to you, given Stantons wrote those portions of the report?---I don't think so.

Can I ask you, Madam Associate, to bring up the document at 6441. You will see this is a chain of emails, Ms Moyser, between you and Mr Dunstan?---Yes.

25

Of 14 May. It's quite a lengthy chain. If I can take you, Madam Associate, back to page 6444, TRIM reference, sir, 22192.

COMMISSIONER: Thank you.

30

MR BEETHAM: If I can ask you just to look at the email at the bottom of the page. This is an email from you to Mr Dunstan on 3 May?---Mm hmm.

35 So this is an email sent, as best we can tell, between when you received that preliminary report, the hard copy in front of you, on 6 April?---Yes.

And the edited version of the report we just looked at which was somewhere around the 16th to 23rd of May?---Mm hmm.

40 If I can ask you while you've got the preliminary report in front of you?---Yes.

Just bear with me, Ms Moyser, I've just got to organise my file. If we go back to the start of that report and if I can ask you to bring up page 6378, which has, "Introduction" and, "Scope"?---Yes.

45

You will see under, "Scope", there are four dot points?---Yes.

If you look at the email, you write:

I've reviewed the draft report you have provided -

5 and I understand that's the draft report in front of you, the hard copy?---Yes.

Is that your understanding?---Yes.

:

10

And I have a couple of queries in regards to the original scope of the probity audit. Specifically, the report seems to include a number of areas that I don't feel align with the scope.

15 ?---Yes.

Then you say, "In the initial scope outlined on page 4"?---Yes.

20 And you will see on the document you're looking at, that's page 4 of the hard copy?---Yes.

"Points 3 and 4 were not part of the probity audit"?---Yes.

25 That's a reference, is it, and please let me know if I'm wrong, to the dot point that says:

To observe whether the process was in line with best practice evaluation process for similar tenders.

30 ?---Yes.

:

35 *And to comment on the allegations raised by Hydroquip as contained in the complaint from CCC.*

?---Yes.

40 Following that, you had a meeting with Mr Dunstan, do you recall that?---Yes. I can see from my email that meeting was suggested.

Madam Associate, if you go back to 6441, you will see there in the middle of the page:

45 *Hi Wade, I've sent you a diary invite for 1 pm.*

?---Yes.

"Presuming an half hour meet"?---Yes.

And Mr Dunstan says, "That will be fine, see you then"?---Yes.

5

So it indicates you had a meeting on that day at 1 pm?---Yes.

Do you recall that meeting?---Not - - -

10 Not in any detail?---Not in any detail.

Do you recall where it was?---Either at the City or at their offices.

But you don't remember?---No.

15

And you have no recollection of the discussion?---Not without my notes.

Would it be fair to say that the discussion would have been about the scope, given the content of your emails?---So if you go back to my original email, we had a discussion prior to that around specifically the points in my email and also the - - -

20

Sorry, if we go back to the original email, the lengthy one?---At the bottom of this chain.

25 Sure. Madam Associate, could you go to 6444, please? This email?---Yes. So we talked about - so I referenced here that we had spoken about probity audit and my understanding of probity audit.

30 Sorry, where do you say there that you've spoken about probity audit?---So I reviewed:

My understanding was that the audit would look at the City's current tender evaluation process and assessment of the Evaluation Panel against the process. Also, we discussed a number of options that could be considered by the City to ensure better process and procedure, such as a recommendation to have an expert as a Panel Member in tenders, and have a high level of technical detail and the inclusion of the CEO and/or Director for high value tenders.

35

40 [12 noon]

All right?---So that conversation around that was to talk about - originally, from when I initially met with Wade and through the process, was to talk about what a probity audit - - -

45

Was?---Was, yes.

And I think your evidence earlier today was your understanding of what a probity audit was came from Mr Dunstan at that meeting?---Yes.

5 Yes?---That he provided that information and then I fed that back to Mark. There was some discussion whether or not that would be the appropriate context because they couldn't talk to the expertise side of things.

This is back before engaging Stantons formally?---Yes.

10 Yes?---Following that we had a conversation with Wade around that. So my understanding with the work that Wade undertook, and what he had indicated to me, was that it was an assessment against the City's procedure, that there was an issue around a secondary procedure having come into play at the time then this assessment was being done which was not the procedure valid at the time.

15 Yes?---And that it was to do with the CCC allegation.

20 So your view then was - tell me if this is right - that the material that was deleted from the deleted report was material that was not within the scope of what Stantons were asked to look at?---Was my understanding.

And that's why you deleted it?---That's why I had discussed that with Wade as feedback.

25 But is that why you deleted it? I'm trying to understand - there seem to be a number of options available as to why you deleted this?---Yes.

30 One is, you deleted it because you thought it was out of scope. Another explanation is you didn't want it to be in the report because you didn't like what it said about the City and Mr Humble, for example. A third is, at this point in time at the City, bearing in mind this was in March and April 2018, an extremely busy period of time for the City with the suspension of the Council and things that led up to and followed that and you simply didn't want to have this to deal with as well. So those are three potential options as to why you deleted it. I'm trying to

35 find out from you, of those three, or if there's a potential fourth, why you removed this material from this report?---I don't - there was no intention to remove it. The intention was to refocus and repurpose it in a different thing, from memory, it was my discussion with Wade and we spoke about that and he had indicated, "Just let me know the bulk of it and where to do it." It wasn't - - -

40 So your understanding was it was to remain in the report?---At a different - - -

Somewhere else?---Somewhere else.

45 It's not in the final report though, do you know that?---Yes, I must know that.

So when you received the final report, didn't you go, "Hold on a second, where's

all that material that we deleted that we said was going to be repurposed and put somewhere else"?---No, I don't think I did.

5 Having removed the material from the version of the report and seeing it not in the final version of the report, did you do anything else to deal with the very serious things that are set out in that draft?---What do you mean?

10 The allegations that there might be bias, so do you recall when we looked at the hard copy in front of me that Stantons said, "We can't dismiss the possibility of there being bias"?---So my understanding was that the information that came as part of the report and what Wade had indicated, that there was - it seemed to conflict at different places and there was - - -

15 Sorry, what do you mean by "conflict"?---So there was commentary around that there didn't seem to be any bias and then there is that commentary around the information from Hydroquip not having merit and that - - -

20 But if you could look at 6389 in that hard copy document you've got in front of you, and if you look at observation B?---Yes.

And you had this at 6 April?---Yes.

It says:

25 *It is possible that bias was introduced into the evaluation process.
However, it is unclear whether any bias, if introduced, had a material effect on the outcome of the evaluation process.*

?---Yes.

30 As you will see over the page, they say they "cannot conclusively dismiss the notion that bias played a role in the outcome of the tender"?---Yes.

35 That's a pretty serious thing for them to not be able to dismiss?---Yes.

And if there was an intentional bias in the process by one or more people involved in the process, that would be misconduct from those people, yes?---Yes.

40 And you've got some experience with dealing with misconduct matters in your role as Senior Employee Relations Advisor?---In terms of the disciplinary process, yes.

And in terms of investigating allegations of misconduct made about or by employees?---Yes.

45 And here, you've got these risks being made quite clear to you that bias might be present, bias which you accept may amount to misconduct, and you have removed that from the report and I'm asking, what did you do to ensure that those matters

were nonetheless considered?---We discussed it. We had a meeting with Stantons.

Did you do anything else? You'd been told that they cannot conclusively dismiss that individual bias played a role?---Yes.

5

You've removed that from the report. It's not in final report but you still know that they couldn't conclusively dismiss it, so it's still an issue, isn't it?---So that information as part of it went back to Mark and in the allegation of the CCC - - -

10 Sorry, no - - -?---My understanding at the time is that the CCC allegation, according to Stantons, didn't have - wasn't able to be substantiated.

But the final version of the report is quite different from this version, yes?---Yes.

15 And it doesn't have all of this very important material in it, this material that you're looking at on the hard copy pages?---Yes.

In relation to the observations regarding the misconduct allegations, that's right?---Yes.

20

And you agreed with Ms Joseph on the last occasion that on the basis of the final version of the report, Stantons didn't address, or weren't in a position to address the allegation put to the City by the CCC?---Yes.

25 So in all of that, you've still got these live issues of bias that have been made clear to you in April which the final report doesn't deal with, and I'm trying to understand what you did, knowing that these allegations of this risk were still out there?---I don't remember. I don't remember what I did.

30 Did you do nothing? Is it possible you did nothing? You didn't independently engage somebody else to look at these questions of bias?---No.

Isn't that something that you perhaps should have done, particularly given your role as the Senior Employee Relations Advisor?---Yes.

35

And that's the case too, isn't it, in relation to observation A which starts on 6387 where the reporters say:

40 *The City may wish to refer the matter to the CCC to investigate the possibility of an undisclosed relationship.*

That's again a serious misconduct matter?---Yes.

Relating to an employee at the City?---Yes.

45

That's something you were aware was a risk in April?---Yes.

And wasn't discounted by the final report because it wasn't in the final report?---Yes.

5 And is it the case then that you should have done something in relation to that as well?---Yes.

Are you able to explain to the Commissioner why something wasn't done?---No. I didn't do anything. I believe this was discussed.

10 By whom with whom?---The preliminary report was discussed.

This version of the report in front of you?---Yes. This was the original report that came in and there was discussion around the feedback, there was discussion with Wade and with Mark. Wade went back to his manager to seek clarification and
15 guidance on that.

What I'm interested in is what happened in the City following receipt of this, or at all?---I don't know. I don't know if there was follow-up with the CCC. I don't know if there was further work done around that.

20 COMMISSIONER: What I'm having difficulty with at the moment, Ms Moyser, is this: by the time that the final report comes to the City from Stantons, there was an unresolved issue and that is the issue of whether or not one or more of the employees of the City had been engaged in serious misconduct. If that's an
25 unresolved issue at any point in time, I would have thought that's a matter that the City ought to investigate thoroughly and act on, would you agree?---Agreed.

And a thorough investigation of that sort of allegation would at least require that those involved, against whom the allegations are made, should be interviewed,
30 would you agree with that?---Agreed.

And Mr Humble wasn't interviewed, was he?---Only as part of his role on the Evaluation Panel.

35 Was he interviewed about these allegations?---No.

You knew that? You knew that at the time that the Stantons' report was issued, didn't you?---Yes.

40 And Mr Copeman wasn't interviewed about those allegations either, was he?---No.

And you knew that as well at the time the report was issued by Stantons?---Yes.

45 So as the Senior Employee Relations Manager, did you think it was something that should be just left hanging where it was or did you think it was something that should be, at that point, properly investigated and actioned?---As I understand it now before me, yes, I agree.

At the time - - -?---But - - -

Just wait for the question?---Sorry.

5

At the time as the Senior Employee Relations Manager did it occur to you that these unresolved allegations of serious misconduct should be thoroughly investigated and actioned?---It did not occur to me at the time.

10 Did you think at the time that as the Senior Employee Relations Advisor, that was something that should have occurred to you?---In hindsight, yes.

Mr Beetham.

15 MR BEETHAM: At about the time that you received the preliminary report, Ms Moyser, and you were shown this email a little while ago, prior to receiving this but on the same day you sent an email to Mr Humble and Mr Pascoe in which you said there were no breaches and no biases - perhaps just out of fairness, I will bring that back up. It's at 4335, please, Madam Associate. You will recall I asked
20 you some questions about this on the last occasion, yes?---Yes.

At this point in time, you hadn't received any of the reports, had you, because you received the first preliminary draft later that afternoon?---Yes.

25 You certainly hadn't received a final version of the report?---No.

Do you recall now, sitting here today, that the final version of the report wasn't received by you until July?---That sounds correct, yes.

30 That review, as we have discussed, arose out of the context of the CCC referral with an allegation in relation to Mr Humble?---Yes.

And on this date, you informed Mr Humble of the fact, as you understood it at least, that there were no breaches or biases evident from the review?---Yes.

35

But you did that on the basis simply of a, as I understand it, a telephone or meeting with Mr Wade Dunstan?---Correct.

[12.15 pm]

40

Given Mr Humble was the subject of the complaint and given you hadn't received a final version of the report, on reflection do you think perhaps you shouldn't have sent this email?---Yes.

45 And that in the usual course, you wouldn't contact the subject of the complaint in this way until you had received the final report?---Yes.

And if the final report said that everything was clear and the report was robust enough that support that view, then you might inform the employee, is that right?---Yes.

5 Or you might employee the employee's line manager who would inform the employee?---The line manager, yes, correct.

But if the report had found that things were not good?---Yes.

10 So for example, if the final report was in the form of the preliminary report, that's something that would then be dealt with via different process, is that right?---Yes.

There would be a formal disciplinary process that would be followed?---Yes.

15 It wouldn't be an email of this type?---Correct.

I want to take you to another version of the report now, please, Ms Moyser. This version is version 1.7. It's at 7105, Madam Associate. This version, Ms Moyser, you will see again if you look at the small writing at the very bottom, do you see,
20 "2018/07/04"?---Mm hmm.

If you read a bit further along, "Draft version 1 .7, BM comments", that's you?---Yes.

25 "WD responses", that's Mr Dunstan?---Yes.

"KD comments", that's Mr Donnelly?---Correct.

30 So this is a document around 4 July. Your evidence in the previous hearing with Ms Joseph was that your back and forth with Stantons was by way of clarification. Having look at the report we have just seen and the substantial amendments, would you agree that's perhaps not an accurate representation, you had a bit more of an involvement than just clarification?---Yes.

35 If we look at this report, and Madam Associate, if you could please go forward to 7110. Sorry, I always forget whether I said the TRIM number or not, but it's 22611 if I didn't.

40 COMMISSIONER: Thank you.

MR BEETHAM: Is that big enough on the screen for you to make out what's going on there?---Mm hmm.

45 Am I right in thinking the comment at the top, "BM 7", that's a comment of yours?---Yes.

And are you able to shed any light on whether - see the mark-up in the box there,

there's some strike-through?---Yes.

5 Are you able to explain or shed any light on whether that's your mark-up or somebody else's? Does the fact it's red mean it's yours?---It might be the red that is mine, yes.

But do you recollect doing that?---No, I don't recollect doing it but I - - -

10 It's possible?---Yes.

If I can just ask Madam Associate to go to the next page. I just want you to take note of all the red comments. You see there's a number of red comments there?---Yes.

15 Madam Associate, the next page, a number of red comments there?---Yes.

Madam Associate, the next page, some red comments there, and the next page, some more and perhaps that's mark-up's yours as well, we are not sure, is that right?---Yes.

20 And over to the next page, please, that's another comment?---Yes.

So you were quite engaged in this process in providing the feedback, that's right?---Yes.

25 Do you recall doing this or is this something - - -?---I don't recall specifically doing this but I understand that was what I did.

30 Madam Associate, if you could go to 7119, please. This is, you will see, the start of the appendices?---Mm hmm.

Can I just ask you to read that portion in mark-up there, please?---In red?

35 Yes, please?---"I'm not sure of the relevance of this" - - -

Sorry, just to yourself?---Sorry.

Not at all?---Mm hmm.

40 That reads to me, in the context of this report, as a comment by you?---Yes.

Do you agree with that?---Yes.

45 You will see that 8.1 says, "Detailed probity audit findings"?---Yes.

If we go over the page, Madam Associate, to 7121, you will see at the bottom there, this is one of the findings that was in the final report?---Yes.

And it says:

5 *The review was unable to conclusively verify that the method for
evaluate being pricing was demonstrably unbiased, independent of the
submissions received and not contrived to support a particular
outcome.*

?---Yes.

10

That was one of the central findings in the report that goes to the allegation raised about the CCC?---Yes.

15 Are you able to explain in that context then why you made the comment that you're not sure of the relevance of the appendix, given that's something that's within the appendix and was critical to the CCC?---My comment regarding the appendix was more around the specific identifiable areas in the procedure and the deviations from that. That was my understanding.

20 Yes, and I had understood you thought those matters were within - - -?---Yes.

They were relevant?---Yes.

25 So why is it that in your - we can go back to it, 7119, please, Madam Associate - why is it in that case then, and perhaps I'm misunderstanding you, why is it in that case you've written, "I'm not sure of the relevance of this appendix"?---So that should be in the report.

30 What should be in the report?---The information. Rather than being an appendix it should be in the report.

35 So everything that's in this appendix should be in the report, is that - - -?---The components around - so specifically that PR 0660 and the deviations from that procedure specifically, is my understanding.

So you're not suggesting everything in the appendix is irrelevant?---No.

40 Your view is that those words mean that it should have been front and centre?---That goes to the heart of what my understanding of the probity audit was.

To be fair to you, it suggests to me on the face of it that the whole appendix should just go, when you say you're not sure of the relevance of the appendix?---No, that's probably not - well, not intended at all.

45 If we go forward, Madam Associate, to 7126, if can I just take you to the first comment you make there?---Mm hmm.

You've written, "Not part of scope? Scope involves" and then there's 1 and 2?---Mm hmm.

5 This is a reference to Stantons' comments that between the reviews conducted by them and Shenton Aquatics, "a number of departures from good practice were noted"?---Mm hmm.

10 It might be the case that departures from good practice were not within scope, but isn't that something you would want to know about?---Yes.

15 So why would you suggest, as this comment seems to suggest, that it shouldn't be in here?---It's probably not the intention of that. I remember talking with Wade about - he had a discussion with me and spoke to me about the five elements of probity - for good probity, there were five elements I believe that he discussed. I don't recall what those individuals are, and we had spoken about incorporating that into the recommendations. So part of the City to be able to improve its procurement and the procedure was to put that in there.

20 So are you suggesting in this comment that it be removed? This is what I don't understand, your comment says, "It's not part of scope"?---Right. So the scope in terms of the probity component and then the recommendations, my understanding as to how to better do it, not to discount it but to structure it so that it looks at where the City failed in terms of the procedural components and then how to prevent that happening again, incorporating that he had mentioned the five elements of good probity.

25 If we can just go back just finally to 7119, there's something my instructor has very helpfully brought to my attention. In this comment 3 here that we have just looked at a moment ago?---Mm hmm.

30 You say:

Specifically as the review is to undertake an assessment of PR 0660."

35 ?---Mm hmm.

That's the City's policy in relation to - - -?---Tender evaluation procedure, yes.

40 You've not referenced there though that the review is actually to undertake a review or investigation of the CCC allegation?---No.

Why is that? Did your understanding of what Stantons was required to do change with time?---I don't think it did.

45 Is there a reason why you've not mentioned the CCC allegation there?---No, not because it wasn't relevant but because my understanding was that the assessment of the procedure, adherence to the procedure and the impact of that on establishing

the bias as part of the CCC allegation.

That was your focus?---That was my understanding.

5 Just bear with me one moment, please, Commissioner.

COMMISSIONER: Of course.

MR BEETHAM: Those are all my questions for the witness, Commissioner.

10

COMMISSIONER: Thank you, Mr Beetham. Ms Soliss, do you have an application?

MS SOLISS: There's no application, sir.

15

COMMISSIONER: Thank you, Ms Soliss.

Ms Moyser, that completes your evidence today. Thank you for your assistance?---Thank you, Commissioner.

20

You're excused?---Thank you.

WITNESS WITHDREW.

25 MR BEETHAM: Sir, I understand Mr Urquhart is here and available to conclude proceedings and I can vacate the Bar table and he can slide in without an adjournment with that would be convenient to you, sir.

30 COMMISSIONER: It most certainly would, thank you. Ms Soliss, do you wish to excuse yourself from the Bar table?

MS SOLISS: Yes, please, sir. Thank you.

COMMISSIONER: Yes, Mr Urquhart.

35

MR URQUHART: Thank you very much, Commissioner. That now brings to a conclusion block A of the public hearings of this Inquiry. The next block will commence on Monday, 26 August and I will now just make a few closing remarks.

40 [12.30 pm]

45 Sir, the matter dealt with today and most of yesterday concerned the procurement and contracting with respect to the tendering process of just one service that was outsourced by the City of Perth. The Inquiry's investigations to date have uncovered questionable practices in the procurement process with respect to other contracts that were tendered out. These practices would seem to have also extended to the lack of checks and balances to ensure contracts were not awarded

based on extraneous considerations.

5 Whether the Inquiry has the time to fully investigate these matters at public hearing examinations will, however, be the issue. That is because the next two blocks of the public hearings, comprising of a total of four weeks, will be taken up with other significant matters, including the operation of the Council, the Council's relationship with the City's senior personnel, and the Council's questionable decision-making.

10 On the subject matter of time, despite the warnings at the end of my opening address last week, it very quickly became necessary for Counsel Assisting to repeat the questions to witnesses who refused to answer the questions but instead, chose to give answers that were evasive and non-responsive. You, Commissioner, had to regularly intervene to remind witnesses to answer the question asked of
15 them. Extraordinarily, even then, some witnesses had to be told that more than once.

20 There were also many initial answers that were untruthful, thereby requiring more questions and therefore, more time to finally obtain the truthful response. There was also a tendency amongst some witnesses to not admit facts until it became evident to them that the Inquiry already knew what those facts were.

25 What this all meant is that the Inquiry had to expend valuable hearing time getting witnesses, who had sworn or affirmed to answer questions and tell the truth, to do exactly that, answer the questions and tell the truth. At the risk of stating the obvious, the process will run far more efficiently if witnesses do what they are required to do.

30 Furthermore, witnesses need to understand that the decision-making process of the Inquiry will include making an assessment of the credibility of witnesses. If a witness deliberately does not answer questions or continuously gives untruthful answers, then that could reflect poorly on the credibility or reliability of their account, and it has the potential to extend beyond the subject matter the question relates to.

35 To give an example, should the same witness give evidence about an entirely different matter that is contradicted by evidence from another witness, then the Inquiry could be required to make findings of fact based on the credibility of each witness. If one witness has shown a propensity to be untruthful or non-responsive
40 when testifying and the other has not, then they will be factors that can be taken into account when deciding which account should be preferred over the other.

45 In short, witnesses must understand untruthful or evasive responses can actually do them far more harm than good. Whatever gain a witness thinks he or she will obtain by not giving truthful and responsive answers will be extremely short-lived. It is therefore hoped that with respect to the evidence of future witnesses, there will be a new beginning when the Inquiry resumes on Monday, 26 August. Thank

you, sir.

COMMISSIONER: Thank you, Mr Urquhart. If there are no other housekeeping matters, I will adjourn the Inquiry to a time to be fixed.

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MR URQUHART: Thank you, sir.

**AT 12.35 PM THE MATTER WAS ADJOURNED
UNTIL MONDAY, 26 AUGUST 2019**

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