

EPIQ AUSTRALIA PTY LTD

Level 1, 533 Hay Street, Perth 6000
Ph: 08 9323 1200

INQUIRY INTO THE CITY OF PERTH

PUBLIC HEARING - DAY 108

FRIDAY, 13 SEPTEMBER 2019

INQUIRY PANEL:

COMMISSIONER ANTHONY (TONY) POWER

COUNSEL ASSISTING:

MR PHILIP URQUHART

COUNSEL APPEARING:

MR ALEN SINANOVIC (Ms Michelle HOWELLS)
MR PETER van der ZANDEN (Ms Lisa SCAFFIDI)
CAV. MARIA SARACENI and MR MARTIN TUOHY (MR Martin MILEHAM)
MR ALAN SKINNER (Mr Dimitrios LIMNIOS)
MS ALENA ZORIC (Mr Gary STEVENSON)
MR NICK MALONE (Mr Reece HARLEY)
MR MATTHEW CORNISH (Dr Jemma GREEN)
MR JOEL YELDON (Ms Janet DAVIDSON)
MR TOBIAS BARRIE (Ms Judith McEVOY)
MR GERALD YIN (MR Yit-Kee YONG)

.13/09/2019

HEARING COMMENCED AT 10.04 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 Before I go any further, the suppression order which I made has now expired so I will make a new suppression order.

15 Pursuant to section 19B subsections (5)(c) and (d) of the Royal Commissions Act 1968, which has effect pursuant to section 8.20 of the Local Government Act 1995, the Inquiry Panel orders that publication of any personal information of any person referred to during the evidence given, or contained in any documents displayed during public hearings of the Inquiry, during the period 13 September 2019 to 27 September 2019, is prohibited.

20 In this order, personal information means: (a), particulars of any person's contact details, including but not limited to, his or her residential addresses, the addresses of any other residential or commercial properties in which he or she as an interest, post office box numbers, telephone numbers or email addresses; and (b), any person's bank account numbers.

25 I will have Ms Scaffidi recalled and then sworn and then I will have applications and appearances. Mr Urquhart.

30 MR URQUHART: Yes, thank you sir. The applications for - - -

COMMISSIONER: Are you recalling Ms Scaffidi?

35 MR URQUHART: Certainly. I thought, sir, you had already done that but yes, I do now formally recall Ms Scaffidi.

COMMISSIONER: That's all right, Ms Scaffidi is keen to get on with things, I think.

40 **MS Lisa-Michelle SCAFFIDI, recalled on former oath:**

COMMISSIONER: I will hear applications and I will take appearances. Mr Sinanovic?

45 MR SINANOVIC: Yes, Commissioner. I appear for Michelle Howells.

COMMISSIONER: Yes. Mr Tuohy?

MR TUOHY: Commissioner, I seek leave to appear. Ms Saraceni is slightly delayed this morning.

5 COMMISSIONER: There's no difficulty with that at all, Mr Tuohy, thank you. Mr van der Zanden?

MR van der ZANDEN: May it please you, Commissioner, for Ms Scaffidi.

10 COMMISSIONER: Thank you. Mr Skinner.

MR SKINNER: May it please you, sir, I seek leave to appear on behalf of Councillor Limnios.

15 COMMISSIONER: Thank you. Ms Zoric.

MS ZORIC: May it please you, Commissioner, I appear on behalf of Gary Stevenson.

20 COMMISSIONER: Thank you. Mr Malone.

MR MALONE: May it please you, Commissioner, I continue to seek leave on behalf of Mr Harley.

25 COMMISSIONER: You continue to have leave. Mr Cornish?

MR CORNISH: Thank you, Commissioner. I seek leave to continue to appear on behalf of Dr Green.

30 COMMISSIONER: Yes, you continue to have it. Your leave extends from yesterday. Mr Yeldon.

MR YELDON: Yes. By your leave, Commissioner, I continue to appear for ex-Councillor Davidson.

35 COMMISSIONER: Thank you. Mr Barrie.

MR BARRIE: Commissioner, I seek leave to appear on behalf of Ms McEvoy.

40 COMMISSIONER: Thank you. Your leave continues from yesterday. Mr Urquhart, are you ready to proceed?

MR URQUHART: I am, thank you, sir.

45 Ms Scaffidi, I would like to ask you some questions now regarding 14 January of 2016. We touched on that yesterday, when we went through the fact that there were two emails you received on that day from Mr Stevenson. The one I want to concentrate on now is that email which had the details regarding gifted travel he

had asked the CCC to investigate?---Yes.

And of course, that included gifted travel you had received?---Yes.

5 And also, Elected Members from your team had received, namely, Mrs Davidson and Councillor Butler, or ex-Councillor Butler, is that right?---Yes.

And there was also one regarding Mr Mileham too?---And I thought some officers as well.

10

Yes, but Mr Mileham as well, and that was to do with the same - - -?---The Bloomberg philanthropy trip.

15 Exactly right, yes. Would it be right to say when you received that email and read what it contained, particularly that table, that you had a whole gamut of emotions?---No.

No?---No.

20 No emotions at all?

COMMISSIONER: Yes, Mr van der Zanden. Do you have an objection?

25 MR van der ZANDEN: Yes. Perhaps it might be better in the absence of the witness.

MR URQUHART: Maybe I will just approach it a different way.

30 MR van der ZANDEN: Perhaps I can just approach Council?

COMMISSIONER: Why don't you go and approach Mr Urquhart and allow it to move on?---Do I stay?

35 You stay where you are, Ms Scaffidi.

MR URQUHART: I'm very grateful to my friend and by all means, if he wishes to approach me to clarify something like that, that would be fine.

40 COMMISSIONER: It will be fine by me too.

MR URQUHART: Yes.

Ms Scaffidi, I think it was actually an envelope?---It was.

45 You got from him. It would have been - does 14 January sound about right?---I don't recall the date but it was a hard copy.

I apologise for that, I said it was an email. A hard copy of that, yes. So getting back to this, did you believe the need for an investigation was completely unwarranted regarding the matters he complained of with respect to yourself?---Me? My recollection is he had a statutory obligation because it had not been declared. There had been a long conversation with Martin and myself about retrospective disclosure but that wasn't allowed under - well, it isn't allowed under the Local Government Act.

And the question? Would you like to answer the question?---Yes, so it was a statutory obligation so I wasn't upset about it.

Did you believe that the need for an investigation was not warranted?---I can accept that an investigation could be warranted to ensure that it wasn't of a corrupt nature, perhaps.

Ms Scaffidi, did you believe that an investigation was not warranted?---Not warranted?

Not necessary?---Yes, I understand. Not necessary? Well, I didn't have a feeling about it. I don't recall a feeling about it.

You hadn't done anything wrong though, had you?---No.

No, so therefore, logically, your view would have been that an investigation was not warranted, yes?---Yes. Nothing seemed logical at the time, let me assure you.

No, I'm just asking you about that?---Sorry.

So obviously you would have had some emotional reaction to opening up this envelope and seeing this material?---At that time I was understanding the issue more than I had so I wasn't as upset as you might think I was.

I'm just simply asking you whether - - -?---The answer's no.

- - - you had some emotions as you opened this up?---I had a lot of emotions at that time generally.

So there was obviously a feeling of frustration?---Just perplexed.

Frustration?---I'm not frustrated. I don't believe so. I think it was more just overwhelmed by everything that was circling.

So an emotion of - what about this, did you think that Mr Stevenson had a vendetta against you?---No.

No?---No.

Making these complaints that were not warranted, you didn't think that he had something against you?---You're saying not warranted, he's saying statutory obligation to report.

5 I thought we had established that you did not believe that it was necessary for him to make this complaint because you had done nothing wrong, okay? So you've opened up this envelope, you read this, and this is in January of 2016, yes?---Yes.

So feelings of frustration, you won't accept that?---No.

10

Surely a little bit of annoyance?---No.

No? No annoyance at all?---By that stage I had gone through a CCC investigation, I was not enjoying it but I was accepting of the fact in a public role

15

[10.15 am]

But it had finished. The CCC had handed down its report in October the previous year?---But the issue had not gone away.

20

The report had been handed down - - -?---Yes.

- - - in October the previous year. The issue has now resurrected itself because of the these further matters that Mr Stevenson is raising, yes?---Yes.

25

So clearly the CCC process was an extremely emotional one for you?---Yes.

Would you agree with that?---Of course.

30 And it looked like here that Mr Stevenson was asking the CCC to investigate you even further?---Yes, but he always said it was a statutory obligation. He was obligated to.

That might be so?---Okay.

35

But you must have been not just - surely frustrated that he was doing this?---No, I don't accept the word "frustrated".

Annoyed?---No. I said the word I felt, perplexed but at the same time, resolute that in a public role I had to accept these processes.

40

You had to accept that you may have to go through all the stress and trauma of a CCC investigation again?---I had to accept it.

45 Yes, and that didn't cause you to be at least a little annoyed?---Not annoyed.

Not annoyed, but you agree with me the CCC process had been a very unpleasant

experience for you?---Well, it's the stigma of the CCC, so - the CCC itself is what it is.

5 It was a very unpleasant experience for you, wasn't it?---It's an experience people would rather avoid.

I'm asking you the question?---Yes.

10 It's a very unpleasant experience for you?---I'm happy to say that.

You keep on saying, "I'm happy to say that" and I've got to make - - -?---Well, they are not the words I choose.

15 Do you agree or disagree that it was an unpleasant experience for you?---I'll agree, yes, but they are not the words I'd choose.

Because you were questioned for hours at length, weren't you?---Yes.

20 You remember clearly that, don't you?---I do.

By a particularly ruthless barrister, wasn't she?---I don't recall that.

25 No? So you believed, did you not, that when the CCC report was handed down in October of 2015, insofar as CCC investigations of you were concerned, it was over?---Yes.

And now Mr Stevenson was raising other travel you had been gifted for possible investigation?---Yes.

30 And you say that the only reaction you had to the contents of that envelope was perplexion?---Yes.

Nothing else?---No.

35 You're only human, Ms Scaffidi?---I am, as I said yesterday.

Yes, and that's it?---Yes.

40 Not the hint of anger?---No, no anger.

Not the hint of annoyance?---No.

Not a hint that this man is out to get me?---No.

45 Not at all?---No.

Making, on your view, unfounded allegations?---No.

5 I think you've been shown this email previously. I would just like to show it to you again. So you say you didn't have this feeling he was out to get you?---The feeling I had was concern that we weren't able to discuss the issue. He wouldn't discuss the issue with me, that I recall.

Because if you discussed the issue with him, you would have been able to sort it out, yes?---Well, he - I don't recall what he sent me - - -

10 But that's what you wanted to do by discussing the matter with him. You wanted it sorted out with him, rather than him - - -?---No.

- - - going down this other path?---No.

15 No?---No, no. Sorry, I don't accept that.

20 Why was it then that you just wanted to discuss it with him?---I was still coming to understand these issues. Clearly it had impacted the City far beyond just myself, although I had the most travel breaches because as Lord Mayor I was doing the most travel.

Can you answer the question now?---Sorry, repeat the question?

25 Why did you want to discuss it with him?---Sorry?

Why did you want to discuss it with him?---Well, I wasn't clearly understanding the issue as I do now.

30 Yes?---Yes.

So you discuss it with him, he tells you what his views are and you say to him what your views are, "Let's not make a mountain out of a mole hill, there's no need to take this any further"?---No.

35 So the purpose of the discussion - what did you want as the outcome of these discussions?---No outcome, really.

40 What did you want to convey to him then?---I, as I just said to you, didn't understand the issue like I do now, about the disclosures and the systemic issues that existed at the City and the fact that we didn't have systems in place to assist us and enable us to disclose better, and I think if I was upset about anything, it was of course in hindsight, knowing that there was even more gifted travel than just those Bloomberg ones, or the Bloomberg one, that I would have had no problem disclosing all of it.

45 Very good. So therefore, you were hoping - - -?---No, I wasn't hoping anything.

The purpose of these discussions surely was to say to him, "This is my point of view, this was my understanding. Therefore, there was no need, would you at least reconsider" - - -?---No.

5 I'm just at a loss as to what you wanted to achieve from this discussion, to put your point of view across to him, and what? And then say to him, "You can go ahead and do your report"?---No, you're suggesting that I was asking him to make it go away, I knew he couldn't.

10 No. You see, you're trying to read something sinister into my questions. All I'm asking you is whether the point of this discussion was to try and resolve it between the two of you?---No, because I knew I couldn't resolve it. It had to be reported.

It had to be?---Correct.

15

You've told me that an investigation was not warranted, that was your personal view?---My personal view is my personal view.

Yes, I know?---And it doesn't mean that it's right.

20

But at least you can convey that to Mr Stevenson because surely your option - your preference - let's say there was Option 1, this matter goes off to a potential investigation by the CCC or Option 2, you might be able to resolve it between - - -?---He did offer that.

25

- - - between yourself and the CEO. Wouldn't Option 2 be your preference? I don't want to hear whether he offered it or not, I just want to ask you whether you would have preferred Option 2?---Mr Urquhart, I didn't have a preference. I didn't have a preference.

30

Let's look back on it now. What would have your preference been, Option 1 or Option 2?---My preference would have been that I'd known about it and I'd disclosed it correctly with the right systems in place.

35

But that didn't happen so now going back to this, Option 1 or Option 2; what would have been your preference?---No preference because it happened. I'm sorry.

40

I'm just saying, again hypothetically, Option 1 or Option 2? Do you go down the path of a - I will just confer with my friend and see what the problem is. I'm grateful to my learned friend. I hope, sir, you didn't mind if I just confer with my learned friend.

COMMISSIONER: Not at all.

45

MR URQUHART: It saves Ms Scaffidi having to leave the hearing room and come back and everything.

COMMISSIONER: Yes.

5 MR URQUHART: So there we go. Let's see. Take a step back: you had found out some time in late 2015 that Mr Stevenson had made a report to the CCC?---I only recollect that now from these proceedings. It's very faint.

10 You would have certainly known that the first time you asked for the matter he had reported to the CCC?---I think it was August.

August, yes?---Okay.

15 Were you aware before he had sent that report to the CCC that he had some concerns regarding gifted travel that had not been the subject of any CCC investigation?---My recollection is that we were all learning and appreciating that the annual returns, which was where the travel was disclosed at that time, had not been completed fully and so we knew that since Gary had been CEO, that I had gone out that Bloomberg trip with Martin and if you don't mind me just adding this little piece, when I received the invitation to go on the Bloomberg trip, which was
20 an email - - -

I think we are getting a bit off track because all I was asking you - - -?---We conferred about it with Gary is what I was going to say.

25 And this was - - -?---So he knew about it.

So you knew he knew about it and then he nevertheless went ahead and made - - -?---And that's okay.

30 - - - the report to the CCC?---He deemed it suitable for Martin and I to go and I think he was the one that chose Martin as the officer to travel.

35 So he approved it and yet, he is then making or suggesting that the CCC investigate it?---Yes.

So I can understand then, now that you've offered that evidence, as to why it was that you thought the complaint insofar as it concerned you was unwarranted?---Not unwarranted, just didn't understand it.

40 Unnecessary?---Well, no, I see it as necessary because it wasn't on the annual return.

45 But you hadn't done anything wrong?---I'd represented Perth to the best of my ability.

Your view was you hadn't done anything wrong?---Correct.

So getting back to that, so once you had those initial discussions, at the time you had those initial discussions with Mr Stevenson - - -?---And Mileham.

5 And Mr Mileham, at that point in time you would have preferred going to that Option 1 rather than Option 2 that we have gone through?---Option 1 being, because there's a couple of Option 1s.

10 Option 1 being that the matter just be resolved within the City, in light of all the circumstances, rather than Option 2, the matter being referred to the CCC for a potential investigation?---I can't give a yes or no answer.

15 Surely, because your preference - - -?---He did try and help us by offering us to the retrospectivity. I didn't accept it on legal advice because my lawyers at the time said there is no retrospectivity in the Local Government Act, there is in the Federal Government Act. Martin accepted the retrospectivity and of course, it still got referred for Martin as well.

20 So your preference obviously would have been for Option 1?---Well, you know, it didn't bother me, Mr Urquhart.

25 No, your preference. I'm just asking, not whether it bothered you or not, but your preference would have been for a resolution that didn't involve a potential investigation by the CCC? Surely that must have been your preference?---Preference but it didn't worry me.

It is correct to say though that when the CCC handed down its report in early October of 2015, you believed that the matter involving travel and gifted travel in particular, at least for you, was all over?---No. No. Vehemently no.

30 So if you told others that that was your view - - -?---I can't remember what I told them.

35 - - - back then, that would be wrong, would it?---I can't recall what I told others but my recollection now - - -

I'm about to remind you?---Okay. My recollection now is that it was pretty swiftly referred to the Department and then there was another investigation by the Department on all of the travel, so if I'm getting those time lines confused

40 [10.30 am]

So the CCC report was handed down on 5 October of 2015?---Mm hmm.

45 I know that's a long time ago, and then you sent an email to your - you don't mind me describing it was your team?---It's your choice. My colleagues.

That was the name you gave it on your WhatsApp?---True, but they are my

colleagues.

So team?---I would say colleagues, but yes.

5 But you describe them as - - -?---It's not a problem.

Good. It's just that others - - -?---No problem.

10 I've had to use collegiate group, group, aligned members and all these sorts of phrases. It seems to be an issue with people but if you're happy with "team", we will stick with team?---Potato/potato.

Sorry?---Potato/potato, it doesn't worry me.

15 So this email you've sent to the team the day after the CCC handed down its report, so we are going to now, Madam Associate, have a look at 14.2093. We might have to enlarge it for people here at the Bar table?---Yes, I remember this one.

20 I said to you a little while ago I was about to show you but we got a bit sidetracked, that you had had a look at this earlier. The first paragraph - and it's dated 6 October 2015 at - is that at 1 am?---No.

01.06.28?---I don't know.

25 :

30 *Sorry about the suddenness and surprise of yesterday and the outing of the report findings. I had no prior notice but I am so relieved it is over. I never have been through anything more horrible in my life but is now done and out there. It's been like a dark cloud over my head. I've known for some weeks there were no corruption findings or pending criminal charges but I was not allowed to talk about it.*

35 Is that a true description of your emotions as of 6 October 2015?---Yes. It must be as of the time, yes.

Then the fourth paragraph I will now take you to and it reads:

40 *What this means is it's all over. There is no reason for me to stand down and I can continue as per normal, according to my legal team.*

Do you see that?---Yes.

45 And then the seventh paragraph now which starts off, "I feel like"?---Yes.

:

I feel like a (long battle weary) soldier who has been wounded in battle and it's up to my team to now carry me in their arms home and into safe territory. Whether I will survive depends on the outcome of October 17.

5

?---Yes.

10 So having looked at that, do you agree now with me that at least as of 6 October 2015 you thought it was all over?---So that comment there, if I can respond to you?

Does that mean, "What this means is it's all over", as in the CCC matter is all over?---The CCC, correct.

15 A process that you had described so eloquently there in the first paragraph?---Okay.

Is that right?---Yes.

20 "I've never been through anything more horrible in my life"?---I did say it wasn't a fun experience, yes.

"Whether I will survive depends on the outcome of October 17", that being the elections?---Correct.

25

And to give you all the credit you deserve, you won that. You retained the position of Lord Mayor?---M'mm.

You defeated, I think, Councillor Harley?---Yes.

30

Wasn't it?---Correct.

35 So you did survive, "Whether I will survive depends on the outcome of October 17", so you survived that. You're back in the role of Lord Mayor, all this is behind you. It's onwards and upwards, yes?---Onwards.

And for a moment there upwards, and then you get this envelope in the middle of January 2016. Not just a little bit angry about the envelope?---No.

40 Not even just - - -?---Not even a teensy bit. I don't get angry.

You don't get angry?---I could say upset.

Upset and frustrated?---You said frustrated.

45

And I think you agreed with me?---I said perplexed.

Perplexed, a little frustrated?---I won't answer that.

So you weren't even a little bit frustrated?---Upset.

5 So you disagree that you would have been a little frustrated?---Upset.

And not in the least bit annoyed?---If you've got an email that says frustrated, show it to me but no, I'm not - no.

10 Is it the case, Ms Scaffidi, that you won't accept a proposition unless there is independent evidence of it or something in an email?---Mr Urquhart - - -

Can you just answer?---Respectfully, your choice of words wouldn't be my choice of words.

15

Okay. So you're perplexed. You are frustrated, you're not annoyed?---No, I wasn't frustrated.

Sorry, you were perplexed and - - -

20

COMMISSIONER: Upset, was the word Ms Scaffidi used.

MR URQUHART: Yes, thank you, sir.

25 Upset. Perplexed, upset, not annoyed - not annoyed, no? Not annoyed at the prospect of having to go through another horrible thing in your life with the CCC investigation?---As my lawyers explained to me at that time, it's a process and in public life you have to accept that.

30 I know all that but didn't that just make you a little bit cross?---No, I mean - - -

Particularly now that Option 1 was no longer available?---I think I just had to accept it.

35 I know all that but you can accept something and still be annoyed about it. It would only be human for someone in your shoes, I suggest to you, to be not just upset and perplexed, but very angry?---Just, you know - your word right now is angry, my word would have been upset.

40 Whatever emotions you had, whether you were upset, perplexed, angry or otherwise, wasn't it those emotions that drove you to use your own words "slay Satan"?---I don't recall the date of the "slay Satan" now.

Two days later?---Okay, but you're conflating that to the CCC letter and I'm not.

45

I'm not conflating. You get the CCC report or the letter from Mr Stevenson on 14 January. You're convening meetings immediately after that and Mr Stevenson's

employment is terminated six days later?---The Council goes into recess from mid-December until mid-January. I've got a recollection that Mr Limnios was away. It wasn't able for us to convene any earlier than that time and - - -

5 Were you planning to convene and do what you did after 14 January?---I think the plan as I recall, was before 14 January.

You were planning that?---Can I expand?

10 I was going to say you, or we; who was that?---I'm thinking of the 16 page document that Mr Stevenson had sent us dated 30 November when I'm responding to you right now.

15 Right. 30 November of the previous year?---Yes, the document that's got the Option 1 and Option 2 in it.

Right?---Do you wish me to expand?

20 I just want to know if you can tell me whether you had any discussions or emails or WhatsApp messages or anything of that sort to indicate that you had planned this course of action that you undertook the day after you got this envelope?---My recollection is on or around 30 November, and it could have been 28 October, I just don't recall the date, that in that appraisal meeting with Mr Stevenson, and I hadn't been able to say this before, he had been asking me for many months of a
25 five year contract renewal, and we told him that we weren't going to renew the five year contract.

30 Is there any communication that you have with anyone between 30 November and 14 January of the next year, 2016, in which you are saying to them or suggesting or proposing, "Look, we need to terminate Mr Stevenson's contract?---I don't recall if there were any WhatsApps or emails about that. I do recall conversations and sentiments being expressed to me often by my Council colleagues and by many senior staff - - -

35 I know there were complaints about CEOs. I've no doubt CEOs get complaints from people all the time, but it seems to me, and I can tell you now, that the Inquiry hasn't been able to find a skerrick of an email, a message, text, amongst the millions of documents it's examined, that supports any suggestion that what you did - when I say you, you and the committee and then the Council - in the days
40 after 14 January. Everything happens - there's plenty of emails, texts and correspondence and communications after you receive the envelope, do you see?---Yes, I see what you're saying.

45 But you're just saying that is entirely coincidental?---My recollection is that when we spoke to Gary on the 30th - - -

I'm asking you, the fact that you received this envelope on 14 January and there is

a clear process put into place the day after, which led to what happened on 20 January, was purely coincidental?---It is.

5 Did it ever cross your mind that a link would be made between what happened - -
-?---Yes.

- - - on 14 January and then what subsequently happened on 20 January?---Yes.

10 Did it cross your mind at the time when you started making these arrangements to
convene a committee meeting?---Yes, I believe it did cross my mind.

It did? All right. So you're a very - you've been involved in politics by that stage
for how long?---Since 07, as Lord Mayor.

15 Lord Mayor, and then as Councillor for seven years before that?---M'mm

[10.45 am]

20 I don't mean this phrase in a derogatory or pejorative sense at all but would you
accept that you're a politically savvy person?---In the current light, no.

No, as of back then?---I would have hoped I was.

25 You were able to develop your influence and reputation in order to be effective in
the City of Perth organisation?---Yes.

You'd agree with that?---Yes.

30 So it's crossed your mind that someone might make the link to what you got on 14
January, to what happened in the days after and of course, that link is entirely
unjustified in your view?---Entirely.

35 Entirely unjustified. So it had crossed your mind; why didn't you wait?---The
feelings from Councillors was expressed to me very strongly.

But that had been going on for a little while?---I accept that.

Yes?---I accept that.

40 So just wait. Just wait, wait several weeks?---So Mr Stevenson had prepared a
document on 30 November and was expecting a reply to that document so that was
why I don't think it was relevant to wait. He had gone away and if I remember
correctly, it might have been to a daughter's wedding and he - it might have been
overseas. He was expecting when he returned in mid-January for there to be a
45 resolution to his Option 1 and Option 2.

But he hadn't asked you for that, had he?---Well, he - - -

Had he sent you an email saying he wanted a response or had he communicated with you that he wanted a response by the middle of January?---I believe the feeling we were left with - - -

5

Can you just answer that question first: had he communicated to you saying he wanted a response by - - -?---I don't recall.

- - - the middle of January. I am going to suggest to you that he didn't, do he?---Okay.

You don't recall, but I'm going to suggest to you there was no sense of urgency from him regarding the resolution of this matter, was there? Was there?---No, that's right.

15

So it comes back to my question then, you just wait. Just wait a little while so this unfounded link would not be made?---I don't agree with that.

I'm saying, why didn't you wait?---Well, we didn't.

20

I know you didn't, I'm asking you why you didn't?---Sorry, to me it's a moot point.

No, it's not at all. It's not a moot point at all, Ms Scaffidi, it's a significant point, with all due respect, because if you didn't want that link to be made, the obvious thing to do, being the politically savvy person that you were, was just to wait?---I don't accept that.

25

But it would have been the better thing to do, wouldn't it?---In hindsight, yes, correct.

30

No, but at that time because you've just told us that had crossed your mind that that link could be made?---Well, after the event it was suggested in the media. I - - -

You had said it had crossed your mind at the time?---I said it's unfortunate timing with the CCC matter and all of that.

35

I'm talking about the envelope, the receipt of the envelope, but I don't want to go back over it because you've already given evidence about this. It had crossed your mind that a link would be made and so now I'm asking you why, with all your political nous and experience, did you not wait?---Because it wasn't all about me.

40

Sorry?---It wasn't all about me. It wasn't about me.

But this to avoid the link being made. You didn't want this link to be made, did you, because it's wrong?---Of course not, because it was wrong.

45

So therefore, you wait. You wait, that's the logical, sensible thing to do, isn't

it?---Not when, and again I believe the general feeling was for Option 1 and people wanted to move forward with that.

5 You could have quite easily have waited several weeks, couldn't have you?---Could have but we didn't.

Because this was an occasion, in your capacity as Lord Mayor, when your emotions got the better of you?---No, I don't accept that.

10 Because you went straight onto it as soon as you got that envelope?---No.

No?---No.

15 Do you at least agree with me that in - I think you have, but in hindsight if in fact there was no connection between the envelope and what you subsequently did, in hindsight, all you had to do was just wait a little while?---No, I - I mean, that's an hypothetical, and so no.

20 No, it's not, it's just looking at it in hindsight?---No, because you're making a link and others have made the link.

Ms Scaffidi, you've told me you made the link at the time?---I saw - - -

25 It crossed your mind at the time?---Yes, I accept that.

Your emotions got the better of you?---No, they did not.

30 And you forged ahead because you were one angry person when you got that envelope?---No, I was not.

You were furious, absolutely furious?---No.

35 Because you had the spectre of the CCC hanging over you all over again. It's a perfectly normal, human response but you didn't have that response?---No.

40 Just bear with me for one moment, please, Ms Scaffidi. Thank you, Commissioner. Thank you, Ms Scaffidi. Another area I would like to ask you some questions about now. It's the Grand Central Hotel. It's also known as the Akara, is that right?---That's the new name.

That's the new name. Excuse me for one moment. I sincerely hope I'm not coming down with what Ms Saraceni's got at the moment.

45 COMMISSIONER: Ms Saraceni is in the public gallery, just in case you want to know, Mr Urquhart.

MR URQUHART: I told her that she was not to come today and that she was to

take the day off, but she's ignored Dr Phil's advice, but never mind.

Sorry, Ms Scaffidi. I will refer to it as the Grand Central Hotel, is that okay?---(Indistinct).

5

It's a building on Murray Street here in Perth?---No, it's in Wellington Street.

Wellington Street, my apologies. Built over 100 years ago?---Yes.

10 And it's number 379 Wellington Street?---Correct.

And you and your husband have a financial interest in that property?---Yes.

What is that financial interest? It's a little complicated, isn't it?---It is complicated.

15

You can disagree with me if you want. A summary, is it, that you and your husband have about a three-quarters interest, does that sound about right?---I think that's right, yes.

20 And you've had that interest in the property, you and your husband, since 2007?---I believe so.

And then March of 2015, the City of Perth began a process to consider the building being listed on the City's Heritage Register?---Municipal Inventory.

25

Municipal Inventory, very good. At or about that time, you had become aware of that?---Yes.

Did you support or oppose the building being listed on that registry?

30

MR van der ZANDEN: Objection.

COMMISSIONER: Yes, Mr van der Zanden. Were you moving towards Mr Urquhart there to have a conferral?

35

MR van der ZANDEN: Yes, I was but he - - -

COMMISSIONER: He seemed to have rebuffed you.

40 MR URQUHART: Sorry.

MR van der ZANDEN: I happy to articulate it.

COMMISSIONER: No, that's all right. Have your conferral. Rejection is never pleasant.

45

MR URQUHART: Thank you, sir. I will just add a couple of extra words to that

question.

As an owner of that building, did you support or oppose it being listed on the registry?---Me personally?

5

You personally?---No feelings.

What was your preference?---List.

10 List? What, at the time in March 2015?---List.

Or now?---List.

15 But if it was listed, that would make it more difficult to redevelop, would it not?---Correct.

And so selling it to someone who wanted to redevelop a property, the option for that would be lessened somewhat, wouldn't it?---Well, I could give you another perspective.

20

Am I right in that or not?---My answer's different.

25 It would have an impact on the value of the property insofar as it being redeveloped goes, wouldn't it, if it was placed on the registry?---Anything that would get my husband to retire sooner would make me happy.

So is the answer to the question then?---List.

30 Is yes, so that being the case, wouldn't it have been better - a preference, if you had one - I know it was out of your hands - but a preference would be for it not to be on the registry?---Well, his preference and my preference might be different.

So his preference was for it not to be on the registry?---My recollection is he responded to the City in 6 July, to that extent, after being requested on his views.

35

I hope we are all not coming down with this lurgy?---I'm not.

Okay, that's good. So his preference differed to yours?---It often does.

40 Well, you're married to him. Again, that wasn't in a derogatory sense?---Perfect marriage.

45 So his preference was for it not to be on the registry, your preference was that it should and what, that meant there's a prospect of him retiring earlier, is that right?---I jokingly say that, but yes. Not redeveloping it.

Yes, but his preference was for it to be redeveloped?---No, not really.

Or at least be able to, if you wanted to sell it, pitch it on the basis that - - -?---He doesn't want to sell it.

5 - - - it could be redeveloped?---There's a lot of presumption in your question, respectfully.

You and your husband had different views as to whether it should be placed on the registry or not, how about that?---We didn't really discuss them to be honest with you but I think yes, we do have different views about those things.

10 But eventually it was formally registered?---I believe, yes, in November 16.

There was that process and then did it have to be formally done in May - - -?---Okay, there were some hiccups or something.

- - - of last year?---Okay.

Does that sound about right? It doesn't really matter?---I think I recall hearing that.

The committee that considered the heritage value of a property was the Planning and Development Committee?---Yes.

25 Am I right in saying you were never a member of that committee?---I think I was in my early days

[11.00 am]

30 All right, but certainly not - - -?---Not while I was a Lord Mayor.

Whenever a Council - I'm just talking about this generally - discussed and voted on a matter in which a person had a financial interest - when I say that person, that Elected Member had a financial interest, they would have to remove themselves from the Council meeting whilst that agenda item was discussed?---Correct.

35 And voted on?---Correct.

Is that right?---Yes.

40 And you had a financial interest with respect to the Grand Central Hotel?---Yes.

The provisions of the Local Government Act require that, don't they?---Yes.

45 What is your personal understanding of why those provisions exist?---To not influence, to not be influencing.

Yes. Anything else?---Because it's a financial interest so you're potentially giving yourself a benefit.

5 Did you understand that an Elected Member who had a financial interest in a matter must not even be present in any discussions?---Yes.

In a Council meeting?---Yes.

10 Or decision-making?---Yes.

And it's not a case of them just going into the public gallery, is it? They actually have to remove themselves from the Council Chambers?---Yes, remove yourself from the Chamber.

15 Is it your understanding that's to ensure that the person with the financial interest is completely removed from the Council's consideration of the matter?---Yes.

20 And do you agree that transparency should not only be done but seen to be done in regards to Elected Members with financial interests?---Yes.

And you agree with me that the purpose of excluding a member from Chambers when the matter in which they have a financial interest is being considered, is to ensure that they have no involvement, either directly or indirectly, into how the Council considers the matter?---Yes.

25 Because, for example, if they were just allowed to sit in the public gallery, they could nod their head or gesture to a member who might be present?---We go out of the gallery.

30 Yes, that's right. Do you agree with me that it would be inappropriate, therefore, if an Elected Member with a financial interest in a matter became involved in the Council's consideration of the matter?---Yes.

35 Would that extend to another Elected Members conferring with that conflicted member as to what the Council should do?---It would be preferable that that Elected Member did not confer.

Yes, and indeed, did that ever happen to you?---It did happen.

40 In what situation was that?---So, I've read the transcript and I see - I was reminded that James Limnios sent me - was it a WhatsApp or an email, I think it was a WhatsApp, "Hey boss".

45 Yes. What should have your response been to that? This is him asking you about the fact that the Grand Central Hotel was on the agenda for the Council meeting the next day, wasn't it?---I don't want to construct because I don't remember the exact words.

Okay, we will get to it in a moment?---Okay.

5 So you've seen where I'm coming from. Yes, I was going to ask you about that exactly. So in light of your evidence you've just given previously, should not the response have been from you, "Look, I can't discuss this with you"?---Yes. Now I accept that but he was querying more about documentation so I - - -

10 It was a little bit more than that though, wasn't it?---I don't recall the detail now.

It was - would you agree with me that you should not have entered into any communications with him regarding what the Council should do with the matter at the meeting the next day?---I wished I'd ignored it.

15 But do you agree with me that you should never have done that?---Yes, I agree with you.

20 Because what's the point then of you declaring a financial interest if in fact you were going to be involved with how the matter is to proceed in the Council with an Elected Member?---I don't believe I was involved but I wished I had not replied to him.

25 The reply should have been, "James, I've got a financial interest in this, you should know better than to ask me about this"?---I'm happy to accept that and - - -

It's what you should have done by law, isn't it?---Yes.

30 Madam Associate, if we could just have a look, please, at the minutes of an Ordinary Council Meeting on 17 March 2015. Let's just have a look at this. This is the first time - 27.0501, thank you, Madam Associate. This is the first time the matter came before the Council. When I'm talking about the matter, I'm talking about the Grand Central Hotel?---Yes.

35 So Council minutes, 17 March 2015, that's just the cover page to let you know that - let everyone know that we are talking about this particular matter. I understand you've been given a copy of this, is that right, or your lawyer has, rather?---Do you know, it's a couple of weeks since I've looked at it but yes, we did have it as pre-reading.

40 Excellent. So you've done your homework?---I did my homework a couple of weeks ago.

45 So we are going to have a look now at 27.0507, please, and this is when the matter is dealt with and it was the, "Proposed principles of new City" - no, it's not. Yes, this is the, "Proposed principles of new City Planning Scheme No 2 - Planning Provisions and Policy, Heritage Assessments and Registrations" and you accept this dealt with the property that you and your husband had an interest in, together

with a number of other properties?---Yes.

Up at 6.13 pm, we see the top of the page there - incidentally, sir, this is 17167
insofar as the TRIM number is concerned.

5

COMMISSIONER: Thank you.

MR URQUHART: :

10

*The Lord Mayor previously disclosed a financial interest in item 83/15
and departed the meeting.*

?---Yes.

15

Then:

In accordance with section 5.6 of the Local Government Act.

20

This is because you were the Presiding Member at the meeting, you stepped down.
Therefore, someone had to replace you?---Correct.

Is that right?---Yes.

25

The Chief Executive Officer sought nominations for a member to preside over the
meeting and then Councillor Linnios nominated Councillor Davidson to preside
over the meeting. There being no further nominations, Councillor Davidson
accepted the nomination and assumed the Chair?---M'mm.

30

Then if we go now to what happened after this item was discussed, 514 now, thank
you, Madam Associate. There's a Planning Committee recommendation, do you
see that?---Yes.

35

I don't need to read it out necessarily unless you want to draw our attention to
anything that's there?---I don't think so.

But we can see what happened after that is the recommendation wasn't accepted,
was it, by Council? Do you see that, "Motion to refer back to the Planning
Committee", do you see that?---Yes.

40

Moved by Councillor Linnios, seconded by Councillor McEvoy?---Mm hmm.

So the motion was put and carried?---Yes.

45

And the votes were recorded as follows, do you see there, so it was
passed?---Yes.

Councillor Harley being the only one against it?---Correct.

And then we go now to 27.0515. We can see the reasons for that or the reason. Do you see at the top of the page?---Yes.

5 :

10 *Council were concerned that consultation with the people affected or potentially affected had not taken place and therefore agreed that the item should be referred back to the Planning Committee for further consideration.*

Then at 6.15, you return to the meeting and resume the Chair, do you see that?---Yes.

15 So this matter was dealt with, given the fact that you left at 6.13 pm, it was dealt with very quickly?---They often are.

Is that what you wanted?---Well, I would say yes, I agreed with the fact that it was not appropriate to not meet - consult is the word there, with affected people.

20 These are - - -

That's all right, I was just asking whether that's what you wanted. But that wasn't coincidental, that you shared the same view as the majority of Council, was it?---No, it wasn't coincidental. I think, as I've already said to you, I should have said to James, "I can't speak to you", and I'm totally happy to accept that.

Let's just have a look at what you did the day before. Madam Associate, that can come down and if we can have a look at 27.3410, please. Ms Scaffidi, these are some WhatsApp messaging between the phone belonging to you and the phone belonging to Mr Linnios, so therefore would have been communications between yourself and Mr Linnios, would it not?---Okay.

We are going to take you now to - sir, this is 23452 TRIM number.

35 COMMISSIONER: Thank you.

MR URQUHART: So - - -?---Sorry, where's that?

40 No, I'm just reciting that for the benefit of the Commissioner and the Commissioner only?---Right.

Ms Scaffidi, you don't need to worry about that. I want to take you now to halfway down that page and I think we are probably going to get a request from those whose eyesight at the table here is as bad as mine, to enlarge that. Is that enlarged, is it? Thank you, that's it?---Yes.

So 16 March 2015, 9.47 pm. So it's the day before the Ordinary Council

Meeting?---Mm hmm.

Mr Limnios sends this message to you:

5 *Lisa, I can't see the list of proposed properties for consideration in Heritage List and schedule. Should we return this to Planning Committee for further discussion.*

10 You've responded to that but I take it from your previous evidence, what you should have said is, "Please, I can't enter into these discussions", isn't that right?---Yes.

15 Just pausing here for a moment. 2015, you'd been a Councillor for 15 years?---Mm hmm.

15 Lord Mayor for eight?---Mm hmm.

20 Mr Limnios, he was not as experienced as you as of 2015 but he'd been in Council for quite a while, had he not?---Yes.

20 So fair to say, easily probably about 25 years experience between the two of you?---Okay, yes.

25 Being Councillors?---Yes.

25 So you've responded two minutes later there:

30 *It's in the Confidential Schedule not attached to the other public schedules. Lily and Rob away tomorrow. Best thing is deferral to committee for discussion after property owners have been contacted and not before as they are suggesting. It's a weird approach. Talk to Janet ahead of meeting tomorrow night. Also, a Chair will be needed for that item so probably best to nominate her, L.*

35 You should have never provided those instructions to Mr Limnios, should have you?---No

[11.15 am]

40 Bottom of the page there for the sake of completeness, 9.51 pm. Mr Limnios says: "Okay, I didn't have that list in my pigeonhole. I am concerned at the cost to" - and then if we can go on to the next page, 27.3411 - "owners and red tape this will create?---Okay.

45 And then you've responded, "Thanks, agree"?---Yes.

Thankfully, there's no emojis there to indicate okay. So as we know from the

minutes, what you proposed is exactly what happened?---Well, I don't think I can take full credit. I mean, I don't - - -

5 You shouldn't have been taking any credit at all?---No.

Because you should have been saying to him, "No"?---Yes.

10 How many other times did you do this, advise or suggest things to Councillors in matters in which you had to excuse yourself?---I don't believe I ever did it and that question came to me and I wished I had taken what you suggested as a perfect answer and just said, "James, please don't ask me."

It's not the perfect answer, it is the answer that - - -?---The answer.

15 - - - you were required to do by law?---Yes.

Isn't it?---Correct.

20 So I want to know whether there are any other occasions in which you did not comply with - - -?---I don't recall.

- - - the obligations of someone who - - -?---I don't recall but I don't - you know, I wished I hadn't on that occasion.

25 You don't recall. So there might well be others, might there?---I don't believe so. I hope not.

30 I would hope, Ms Scaffidi, as someone who is the Lord Mayor of this State's capital city, would be able to state categorically, "No, that has never happened", but you can't do that, can you?---Well, I feel I can but, you know, I'm just disappointed in myself at that response.

35 So you feel you can categorically deny that you've never done something like this before, that is, become involved in a matter before Council and provided instructions for which you should never have done?---Yes, I do.

You can?---I believe so.

40 You believe so?---I do believe so. I mean, this is an emotional issue, as we have discussed, with the difference of opinion.

45 Ms Scaffidi, you refer to a Confidential Schedule there but really this communication was supposed to be confidential between yourself and Mr Linnios, wasn't it? That was the idea, wasn't it?---The idea, but I mean, you know, you don't trust these things.

But you trusted Mr Linnios back then, didn't you? I know there wasn't that level

of trust a year later but as of 16 March 2015, Mr Limnios was a very trusted fellow Councillor of yours, wasn't he?---I would say trusted.

5 Not only did the Council then go ahead with your advice, but Councillor Davidson was actually nominated to Chair the item as well, did you note that?---Yes.

10 And that's something that you suggested Mr Limnios should do, "It would be best to nominate her"?---Janet was a senior Councillor and was often nominated in those situations.

Why? Why was she nominated for a matter that was only going to take two minutes. Why were you proposing her?---There had to be a Chair.

15 I know, but why were you proposing her?---It was kind of done on a seniority basis.

It didn't have to be though, did it?---No, it didn't have to be.

20 Was it convenient for you that it be Councillor Davidson chairing this?---No, not convenient. It was just - no.

Would I be right in saying that at this time Councillor Davidson was the staunchest member of your team?---I don't think I can answer that.

25 Well, I'm asking you?---You're not?

30 No, I am asking you because I reckon you can because you're a member of this team and you were with her on Council for 18 years. She was your strongest supporter, wasn't she, in your team?---She's a colleague, we worked well together.

That wasn't the question. She was the strongest supporter on your team, wasn't she?---No. I don't necessarily agree with that.

35 Who was then?---I think we all worked equally well together.

Who was the strongest member of your team? Who was the person who supported you the most in your team?---I don't think it was a matter of support, I think it was a matter of, you know - - -

40 Who had your back the most, to use that expression?---No, I don't accept - - -

Or did they all have your back, Ms Scaffidi?---I don't accept the premise of the question.

45 Who had your back most?---No-one had my back the most.

Mrs Davidson has said that she couldn't recall a single occasion in 18 years when

she didn't vote the same way as you on Council?---Well, I couldn't agree.

Can you recall a single occasion?---I can't.

5 When she didn't vote the same way as you?---Yes, I could suggest a couple of issues.

On an actual vote?---Yes.

10 Can you?---Yes.

Can you isolate them?---I could.

15 Two occasions you remember in 18 years?---I remember that we did - - -

Is that right, firstly, then you can tell us all about it? Two occasions; you said a couple of occasions, was it two occasions?---Yes. I didn't see similarly with Janet on a lot of the WALGA matters, I didn't see similarly with Janet on some of the cultural items and/or some of the works and urban committee items.

20 She might not have agreed with you but did she vote opposite to the way you voted?---The votes on Perth City Council were probably 95 to 98 per cent - - -

25 Ms Scaffidi, I'm not asking about that. I'm just asking about you and Ms Davidson?---I don't have an audit of it.

You said you don't have a recollection where she has actually voted differently to the way you voted?---I've not had to think of it before so I don't recall it.

30 I suggest that there isn't?---Okay, I accept that.

Because if there was one occasion, one or two, it would stand out quite vividly, wouldn't it?---I think there are a couple but we just wouldn't remember them now.

35 Because when you're referring to WALGA and the like, that's just during debate though, isn't it, and I asked you about - - -?---I don't recall specifics.

40 And I asked you about votes?---I hadn't turned my mind to it and I don't think I've got time now, but I do believe I could come up with some.

The Inquiry - - -?---Are you saying - - -

45 To do every single vote at every single Council meeting would take a lot of time?---M'mm.

However the Inquiry, and it's looked at many, many, many minutes of Council meetings, hasn't been able to find one?---Okay.

MR van der ZANDEN: Is that a question?

MR URQUHART: I'm just asking whether in fact that is the case - - -

5

COMMISSIONER: What Counsel Assisting is doing, Mr van der Zanden, is being fair to the witness so the witness knows what he knows. So carry on, Mr Urquhart.

10 MR URQUHART: Thank you, sir.

There was a staff member of the City of Perth who sat in on many, many, many years of meetings of Council and he's described Mrs Davidson as "virtually a proxy" for you?---Right. That's an opinion.

15

Would you agree or disagree with that opinion?---It's an opinion, it's not my opinion.

Would you agree or disagree?---I don't agree. I think it's an opinion expressed by another party and I think it's fair to say Janet and I did agree on a lot of City and urban issues and people do share views.

20

But when it comes to voting, his observation was that she was virtually a proxy for you. If in fact it was the case that she voted the same way as you every single time, then that would be a very accurate description of her, wouldn't it?---That's another person's description, it's not mine.

25

That would be a very accurate description of her, wouldn't it?---I'm happy to accept it.

30

You keep saying, "I'm happy to accept it"; yes or no, please?---Yes.

That would be an accurate description. Sir, I note the time. Might that be convenient?

35

COMMISSIONER: Yes, it would be. I will adjourn for 15 minutes.

WITNESS WITHDREW

40

(Short adjournment)

45

HEARING RECOMMENCED AT 11.45 AM.

MS Lisa-Michelle SCAFFIDI, recalled on former oath:

5

COMMISSIONER: Mr Yin.

MR YIN: Commissioner, I'm not sure I need your leave to continue representing Mr Yong, but to the extent that I do, I make that application.

10

COMMISSIONER: To the extent that you require it, it's given.

MR YIN: Thank you.

15

COMMISSIONER: Ms Saraceni, you replace Mr Tuohy?

MS SARACENI: Thank you, Commissioner.

COMMISSIONER: Thank you. Yes, Mr Urquhart.

20

MR URQUHART: Thank you, very much, Commissioner.

Ms Scaffidi, I want to ask you something about regulation 10 of the Local Government (Rules of Conduct) Regulations. I know there's lots of regulations but it's to do with relations the Council members are to have with Local Government employees?---Yes.

25

And I will read it out to you. I'm not reading out the entire regulation. The only one bit I want to refer is just a few lines long and it's regulation 1(a) and it says:

30

A person who is a Council member must not direct or attempt to direct a person who is a Local Government employee to do, or not to do anything in the person's capacity as a Local Government employee.

35

?---Yes.

Are you familiar with that regulation?---I am now. I've been re-acquainted with it, thank you.

40

Good, but that sub-regulation doesn't apply to anything that a Council member does "as part of the deliberation of a Council or a committee meeting"?---Okay.

So that's an exception?---Okay.

45

But for other matters, an Elected Member "must not direct or attempt to direct a person who is a Local Government employee to do or not to do anything in that person's capacity as a Local Government employee"?--- Okay.

5 So bearing that in mind and the exception that applies, which is an obvious exception, isn't it, because Councillors need to confer with admin staff from time to time regarding a matter that they are considering at a Council meeting or committee meeting?---Yes, we did.

Yes, of course, and you're perfectly entitled to do that but not for anything else?---Correct.

10 So the question I've got for you, have you ever breached that regulation 10.1(a)?---Again, because I've read the transcript, I realise that I should not have contacted Eugene Lee on the Grand Central matter. I did and it was because I was very upset about what I had heard had occurred in regards to a tip-off that I believe came from Reece Harley, about the property and I was very upset about it, and I
15 wished I hadn't done it but I, on that occasion, reacted out of upset or even anger.

You agree with me though, the legislation doesn't allow for that exception, does it?---No, it doesn't.

20 So what about other times that you have done something like that?---I don't recall.

Could there been other occasions?---I don't recall. May I just add, there was an issue, obviously, in the latter years with liaising with officers and it became the CEO Inbox. I think you will get to that later.

25 But did that involve a breach of that regulation?---No.

So I'm asking you about - - -?---No, I don't recall a previous breach.

30 But you were aware at the time you corresponded with Mr Lee, you knew at the time that you should not have been doing that, didn't you?---I lost sight of it. I was so upset of what I heard.

35 You've said all that, but the answer to the question is - do you want me to ask the question again?---Yes, sorry.

40 Ms Scaffidi, this process could go a lot more quickly if I don't have to repeat the questions over and over again and I've been doing a lot of that. You knew at the time that you contacted Mr Lee that you were not allowed to do that?---Yes.

And that the law required you not to do that?---I was so upset, I lost sight of the law.

45 You knew that the law - - -?---Yes.

- - - required you not to do that, yes?---Yes.

But nevertheless, you deliberately breached the law?---I didn't deliberately breach. I inadvertently - I was upset, I was so upset.

5 Ms Scaffidi, I understand that but you deliberately breached the law because you knew you weren't supposed to do it?---Yes.

So that's a deliberate breach of the law, isn't it?---I don't accept it was deliberate, it was done out of emotion.

10 But whether it was emotion or not, most offences are done by people with heightened emotions. It's not an excuse?---No.

It's not an excuse at law?---No.

15 Not a defence?---I understand.

So you, knowing you weren't supposed to do that, nevertheless in your highly emotive state, nevertheless went ahead and did that?---Yes.

20 So that's an example where you didn't exercise appropriate discretion, would that be fair to say?---Yes.

And the same with the communications you had with Mr Limnios the day before the Ordinary Council Meeting in March of 2015?---Yes, I accept that.

25

In fairness to you, we had better just have a look at those emails. Madam Associate, if we could have a look at 27.0706. So it starts at the bottom of that page - incidentally, sir, TRIM number 19657.

30 COMMISSIONER: Thank you.

MR URQUHART: So this is 12 January 2016:

35 *Hi Eugene, I hope you are well and your 2016 has started well. It's been brought to my attention that you visited 379 Wellington Street today. Can I ask why, and if the visit was instigated by yourselves, and if so, why?*

40 So you now are aware of the fact that you sent that email?---Correct.

Then there was the response by Mr Lee. He responds, can you see that? I don't know that I necessarily need to read it all out?---That's fine.

45 And then we go now to 0705, thank you, Madam Associate. You see there it starts in the middle of the page that you've sent him an email?---Yes.

This is all on the same day:

5 *Thanks, Eugene. There was already a cafe there in the beginning. If the City of Perth checks their records, it was already there. Can you do that? Please update me. I don't believe a change of use is therefore warranted. Thanks again.*

So you're directing him to check the City of Perth records, aren't you?---Yes.

10 And I think you already agreed, you should not have done that?---I should not have done that.

Mr Lee is the Manager, Environment and Public Health?---He was, yes.

15 You do appreciate there is a power imbalance between the two of you, isn't there?---Yes.

Ms Scaffidi, that first email that we had a look at, you only addressed that to Mr Lee. The second one though we are looking at now, you've CCed in a number of other people?---Yes.

20 Haven't you?---Correct.

Why have you done that?---I don't recall now why. Again, it's not an excuse but I was so upset at what I'd heard.

25 Why would you need to CC Mr Stevenson who was still, only by eight days or so, still the CEO of the City of Perth, why did you CC him?---Because of the issue behind it that was aggrieving me the most.

30 Why bring him in on it?---Because he was aware - my recollection is that he was aware of the concerns I'd had about Reece's undermining on this property.

But this is to do with - - -?---I know.

35 - - - the fact that the City - nothing to do with Reece Harley - was seeking Planning Approval, or told the manager of the cafe that he had to seek a Planning Approval for a change of use, you see?---It had come - - -

40 And you're telling Mr Lee - - -?---I didn't say it to Mr Lee about Reece, but - - -

It's got nothing to do with Mr Harley because your concern now here is the fact that the City has told the manager of the premises that he had to seek a Planning Approval for a change of use because he's making an application for health approval for a cafe?---Yes.

45 And you're telling Mr Lee that you don't believe that application for Planning Approval needs to be made. It's got nothing to do with Mr Harley, has it?---On the

face of it, no.

On any face, it's got nothing to do with Mr Harley?---No. On the face of it, no.

5 But you're still nevertheless CCing the CEO?---On the face of it, no, and I still CCed the CEO, yes.

10 So therefore, why? If it wasn't to do with Mr Harley, why are you CCing Mr Stevenson?---My recollection is that there had been a phone call to the City, I became aware of it, and I don't recall who now told me about it, along the lines of a suggestion that there were building works going on as well as the change of use. There were not building works going on, it was refurbishment work only and my recollection is it wasn't a change of use because I think as it said there somewhere, it was previously a dining room, but there was interest in that property and
15 constant phone calls and trouble.

Would you like to answer my question now?---Please repeat it, I'm sorry. I really want to give my version of things.

20 Yes, I know but you've given me a background to all of this and I've let you continue with that background, hoping that it would lead to an answer to the question that I asked you, and it never did. So why did you CC Mr Stevenson?---I'm sorry, I did think I answered that. I CCed him because of the concerns I had.

25 About the - - -?---The whole issue.

No, about the fact that there was this - whether there had to be Planning Approval for a change of use, that's the only matter you've raised with Mr Lee in that
30 email?---On the face of it I'm raising that matter but behind it was the expressed concern that had been informed to me of the agitation, for want of a word, that was occurring

[12 noon]
35

So you forward a separate email to Mr Stevenson outlining all of that. What's the point of sending him this email when there's no background?---I don't recall that now and I'm only looking at one right now. I'm only looking at the one that Stevenson's copied into.

40 Yes, but I'm still at a loss as to why the CEO of the City would be CCed into this particular email in which you're saying to a manager that, "Check your records", you don't believe a change of use application is warranted?---I understand. I accept that.

45 There's no point in CCing the CEO in on this, is there?---Again, my answer is because of the extra background - your word - that I had on it, I was upset about it

and obviously in that emotional state I did something, now that I regret.

What did you want him to do?---I was trying to heighten his awareness of the unhealthy interest that was apparent in our property.

5

I see. Is that why you also sent it on to Mr Mileham as well?---I don't recall exactly. Yes, I don't recall.

No? Mr Mileham, the soon to be Acting CEO?---I don't recall that.

10

That's a fact though?---Yes, it is a fact.

Less than two weeks later, he's got the job of Mr Stevenson, yes?---Yes.

15

So you don't know why you CCed him in?---Probably because he was the Director of Planning and it was planning related and Margaret Smith answers to him, but I might be constructing that, so I just don't recollect clearly why I copied him in.

Gary Sugget, who's he?---Sorry? Sorry, you're turning away. Gary Sugget?

20

Sorry, Gary Sugget, you CCed him as well. Sorry, I just need to read from that?---So Mr Sugget - - -

Sugget, sorry?---He was an employee of my husband's.

25

A business partner?---No, I don't think so. No.

Finally, Kay Collinson?---My husband's office manager.

30

His PA?---Yes.

And you've CCed those two in; any reason for that?---I was so upset.

If you were upset, so be it but why?---Why I included them or why I was upset?

35

No, you've already told us why you were upset. Why did you include them?---I don't recall now.

Then above there you've got a response from Mr Lee who says:

40

Hi Lord Mayor, I will discuss this further with Margaret Smith in Approvals to confirm whether a change of use approval is required. Once I have more information, I will get back to you, Regards."

45

?---Yes.

Were you that upset because of the fact that the City had asked for a change of use

approval application?---It didn't require a change of use as it turned out and I don't recall the specifics because I don't work in - - -

5 The question is, is that what you were upset about?---No, I wasn't upset about that, I was upset at the background that these tip-off phone calls - they are my words - - -

I know all that but there's no - - -?---Okay, I'm trying to explain it.

10 - - - record of that in these emails. I'm just asking you whether - so it wasn't really this change of use application?---No.

15 That had been sought by the City, that wasn't really getting you upset?---That's not a big deal, no.

But in any event, it's a deal you shouldn't have been involved in?---I accept that.

20 Are you sure that in fact this change of use approval was not required?---No, I'm not sure now but I - - -

Because that was your evidence just a moment ago?---Okay.

25 I'm going to show you now, in fairness to you, another email which you got a week later?---Mm hmm.

Madam Associate, 27.0715, TRIM number 19659.

COMMISSIONER: Thank you.

30 MR URQUHART: This is an email from Margaret Smith to yourself.

COMMISSIONER: Madam Associate, we might have the top half of that page enlarged?---That's okay.

35 MR URQUHART: Yes, thank you. It's just for the other people here, Ms Scaffidi. I know you can see it quite clearly. Can you just have a quick read of that?---Yes. I don't recall that email now.

40 Would you now agree with me that in fact the change of use approval application was required?---Yes.

45 So you were not only getting involved in a matter that you should never have got involved in, but you were making a suggestion to the City that it wasn't doing the right thing when it appears that it was?---Okay. I was querying and they very kindly replied, which they shouldn't have, and I shouldn't have emailed them in the first place, I accept that.

Do you agree with me that you were suggesting a course of action that they should take that was in fact not the correct one?---I don't accept that I was suggesting. I think I was querying.

5 Okay, we will go back to what I was reading out:

I don't believe a change of use is therefore warranted.

?---It's phraseology.

10

That's a suggestion though, isn't it?---Well, it could almost be a rhetorical comment but it is what it is.

It's a suggestion though, isn't it?---Well, it was a question.

15

No?---A query.

COMMISSIONER: Ms Scaffidi, at the time when you were engaging in this email correspondence, did you have a private email address?---Yes, I would have.

20

Can you tell me why you chose instead to use your City of Perth email address - - -?---I shouldn't have.

- - - when engaging in this correspondence, rather than your private email address?---I shouldn't have and I can only regrettably say it was the emotion.

25

Yes, that may be so but can you tell me the reason why you made that choice for one over the other?---I can't recall.

30 Mr Urquhart.

MR URQUHART: Might the reason be that you were sending that email or made to look like you were sending that email in your capacity as the Lord Mayor?---Well, that's not me, but I can see that it might have looked that way.

35

That would seem to be the only reason, isn't it?---I don't accept that it was the only reason. It was the emotion.

Can you offer an alternative reason then?---That I was so upset.

40

You were so upset that you didn't think, "I should be sending this from my private email address, rather than my City of Perth address, complete with signature block, Lisa M Scaffidi, the Right Honorable, the Lord Mayor"?---I wished that I had asked other people to query it, not myself, let alone use another email of mine.

45

The reason why you didn't get other people to query it is because they did not have the same gravitas that you had within the City?---No, I don't accept that.

Do you agree with me that if other people were to do it, they had less standing within the City of Perth than yourself?---No, I don't agree with that.

5 You don't agree with that? You don't agree that insofar as those within the organisation of the City of Perth wouldn't regard you as more important than, say, Gary Suggett or Kay Collinson?---I would hope not because I think every stakeholder is valued, but I admit the error.

10 Ms Scaffidi, the question's not going to go away?---Okay.

Are you seriously contending that someone, Mr Lee for example, would treat an email from those two in the same way as an email from the Lord Mayor?---I would hope so. I don't know the answer to that. I'm not thinking for him and I don't
15 accept that I was seeking any gravitas, or whatever the word was.

You were using your title, weren't you?---I incorrectly used my City of Perth email. It wasn't done consciously in that regard.

20 Madam Associate, thank you, they could come down. I want to go now to 2016. So still staying with 2016. Did you and your husband engage a town planning consultancy business called PTS Town Planning to assist you?---Well, I suppose we did - he did. I'm not involved in the day to day operations.

25 But you're aware of PTS Town Planning's involvement?---Mr Simpson, yes.

Yes, Peter Simpson, that's right. Was this to assist in the redevelopment of the Grand Central Hotel?---I don't recall redevelopment.

30 So why then was his business was engaged?---Again, I don't have day to day operational involvement in that and I don't recall.

His business is called PTS Town Planning?---Yes.

35 And you knew what the business was, didn't you?---So was it related to the municipal listing issue?

I'm asking you?---I think it was related to the municipal issue.

40 In June of 2016 was Mr Simpson asked, to your knowledge, to submit to the City the presentation of the report, which is the Heritage Assessments and Registrations Report to the Council be delayed? Were you aware of that?---I don't recall.

27.3377, thank you, Madam Associate. It's TRIM number, sir, 22897.

45

COMMISSIONER: Thank you.

MR URQUHART: There we go?---Right.

Just have a look at that, please.

5 MR van der ZANDEN: Perhaps Madam Associate could blow that up for us?

MR URQUHART: It's being done for you. There you go, just enlarging the screen now?---Right.

10 So the bottom paragraph encapsulates it all, the purpose of this email sent on 29 June of 2016 to Sheree Morrison of the City of Perth:

15 *We therefore request that the report not be presented to a Planning Committee or the Council until you've undertaken the further consultation as the Council has advised you and as you indicated in the Council report.*

Does that now jog your memory as to the engagement of Mr Simpson?---No, I because I don't see these emails. So this is the first time I've seen this email

20 [12.15 pm]

You're seeing that now, there is a request that the report not be presented to the Planning Committee or Council as at 29 June 2016. Are you able to give an explanation as to why that request was made?---No.

None at all?---No. I wasn't there and I don't recall it.

30 But this is a matter that you have been involved in, isn't it? We know that because we have gone through some emails and WhatsApp messages?---Yes, but by this date I had pulled right back and I did not involve myself.

That can come down now, thank you, Madam Associate. I expect that you discussed this with your husband though, did you not?---Not a lot, no.

35 But there were some discussions though, weren't there?---No. At the time, no.

But you were aware that there were applications being made for renovations to be done - - -?---Yes, he was - - -

40 At the hotel?---I think he was refurbishing it at that time. I forget the dates but he may have been refurbing it at around that time or actually, he had probably just finish refurbing it. I think it was early 16 that he did the refurb.

45 The Heritage Listing of the hotel, the Grand Central Hotel, was due to be considered at the Planning Committee meeting - - -?---Sorry, not a Heritage Listing, a municipal - Heritage Listing is a State Listing.

How about we just call it the listing?---Okay.

The listing of the Grand Central Hotel?---Correct.

5

And it was due to be considered at the Planning Committee meeting which was scheduled for 23 August 2016, so a little less than two months before Mr Simpson sent that email to Ms Morrison?---Before or after?

10 After?---Yes.

It was scheduled for that meeting, and together with two other properties. The hotel's been referred to as property I and the other two properties have been referred to as H and J?---Right.

15

Does that sound about right to you? Is that your recollection of it?---Yes, I think that sounds right.

It was, however, withdrawn from the agenda settlement meeting on 17 August 2016?---Okay.

20

Were you aware of that from reading the transcript?---I think I recall it from reading - actually, I think I recall it from reading the transcript. I wasn't aware of it otherwise.

25

And it was withdrawn at, on one version of events, the suggestion of Mr Mileham?---Right, okay.

Mr Mileham at this stage was still in the Acting CEO position, wasn't he?---Yes.

30

But August 2016, is it your recollection that the interview process for appointing someone to the CEO was underway?---Right.

Is that your recollection?---Yes.

35

So Mr Mileham had applied for the CEO position?---Yes.

MS SARACENI: Commissioner, I have an objection in relation to the timing. Perhaps that should be clarified.

40

COMMISSIONER: In the absence of the witness by the sound of it?

MS SARACENI: Not if my friend accepts that - - -

45 COMMISSIONER: You confer with him privately.

MR URQUHART: I think we will be right, thank you, Commissioner.

COMMISSIONER: Pleased to hear it.

MR URQUHART: I don't think I've caught any germs either from Ms Saraceni.

5

COMMISSIONER: That was a bit unkind, Mr Urquhart.

MR URQUHART: So Mr Mileham had applied for the position, it seems, I think, some time in July and then the interview process was taking place in August of 2016?---Okay.

10

I think we are all on the same page there. I've got the nod from Ms Saraceni, so that's good. As the interview times drew near, I think the first lot were in about mid-August 2016?---I don't recall. I'm reliant on your info, yes.

15

And then the second round of interviews was the end of August?---Okay.

Just in the weeks leading up to those interviews, did you make an attempt to plant some seeds of doubt in Mr Mileham's mind - - -?---About what?

20

Let me finish. Please let me finish the question?---I thought you said seeds of doubt, and you'd finished.

Yes, seeds of doubt in Mr Mileham's mind as to whether he would get the job?---No.

25

No?---No.

That would be entirely inappropriate, wouldn't it?---Absolutely.

30

This might be testing your memory but can you recall, and your recollection may have been prompted by the transcript that you've read of late, but can you recall a telephone conversation you had with Mr Mileham on 26 July 2016?---I do not recall the conversation at all and I don't agree with the version he gave in his transcript, or in the transcript.

35

How can you say that if you can't recall the conversation?---Was that the one with the Russian balloonist mentioned?

COMMISSIONER: Just deal with the questions as they come, Ms Scaffidi.

40

MR URQUHART: How can you say that if you can't recall the conversation?---I don't recall the conversation, I'm only - - -

How then can you say that you disagree with what he said about that conversation?---Because the conversation triggers a faint memory, and I am getting confused now if it was the Russian balloonist.

45

That's the one?---Okay, because I didn't even remember the Russian balloonist matter, to be honest with you.

5 This is why people make contemporaneous notes?---Yes.

Of conversations?---Yes.

So that they do have a recollection?---Yes.

10

Should they require one, and you, having read the evidence, know that Mr Mileham took a note of this conversation he had with you, it would seem, the day after, okay?---Okay.

15 I'm thinking from your evidence that you don't recall the conversation and in fact, you did not make a contemporaneous note of the contents?---No, I didn't.

Is there a reason for that?---Not that I can recall.

20 Might it be because you would not want to make a note?---No.

Of the contents of the conversation?---Could be that I was in transit, it could be a number of reasons and that it could be that the phone call didn't upset me as much as it appeared to upset Mr Mileham.

25

So do you have a recollection now of talking to Mr Mileham - - -?---No, I don't.

- - - about - - -?---Sorry.

30 - - - his difference of opinion to you regarding the giving of the Keys to the City to this Russian balloonist?---I don't have a recollection of it at all.

Do you have a recollection that he, Mr Mileham that is, did not agree to a key being given to this balloonist?---That is my understanding from what I've read.

35

Is that your recollection though?---I don't remember.

Do you at least remember that you wanted a key awarded to this balloonist?---My vague recollection is, I wouldn't have wanted it. It was often third party requests to discuss such possibilities.

40

In that case, would you accept that you were in support - - -?---No.

- - - of that request?---I don't recall if I was in support or not. I would have - - -

45

Who was this Russian balloonist?---I had to Google it last week when the transcript came out to jog my memory. He landed in Northam, I think, and I can't

remember the name now.

5 So a request was made from him or someone in his group that they be given the Key to the City?---It could have been from associated parties, it could have been from a number of people. You know, I used to get hundreds of emails a day.

10 But am I right in saying that your recollection at least is to this extent, that you did not oppose the awarding of a key to this balloonist?---We were brainstorming the idea, would be my answer.

I'm asking you?---I was neither for or against. I was open to a robust discussion on possibility.

15 He wasn't given the key, was he?---No.

According to Mr Mileham's account, he rang you on this particular day because of your concerns regarding his lack of following up - - -?---Okay.

20 - - - the awarding of this key to the balloonist?---Okay.

Okay?---I don't recall it but I accept what you tell me.

This is Mr Mileham's account?---Okay.

25 Can you remember discussing anything else with him in this telephone conversation?---No, I don't.

30 You don't remember discussing with him the fact that you and Council Davidson could have done something more with respect to Councillor Limnios' lodgement of a formal complaint to the Local Government Standards Panel?---Sorry, I don't recall that. Could have done more, you're saying?

You can recall the complaint that Mr Limnios made?---No, I don't.

35 To the Local Government Standards Panel?---We made a complaint against him, I think.

And he followed up with one himself?---Okay, I forget that.

40 You remember that, don't you?---No, I've forgotten that.

You remember it now?---No, I'm sorry, I don't. I'm sorry.

45 That's fine. He made a complaint against you and Councillor Davidson, you remember that, don't you?---I'm sorry, I don't remember it.

But this is the start of the falling out - - -?---It may well be - - -

- - - between yourself and Councillor Limnios?---But it is three years ago.

5 The beginning of the end of him being in your team?---I don't recall the detail of the complaint.

But there was a falling out between you and Councillor Limnios, was there not?---Over his non-acceptance of delegations, yes.

10 This is when he was Deputy Lord Mayor?---Yes.

And there was complaints made to the Local Government Standards Panel, weren't there?---Correct.

15 By you and Councillor Davidson?---And Councillor McEvoy.

All three, okay, and then maybe a counterclaim or a complaint made by Mr Limnios?---I forget the counterclaim.

20 But Mr Mileham's recollection, assisted by his note that he made, is that you conveyed to him that you and Councillor Davidson could have, and he's actually quoted a phrase he believes was a direct quote from you from this telephone call that he could have "headed Limnios off at the pass", in respect to his complaint?---M'mm.

25 So do you remember - - -?---I don't.

- - - not being happy with Mr Mileham's handling of these complaints to the Local Government Standards Panel?---I have no recollection of James' countercomplaint, I have no recollection of that phone call and my understanding is that the complaint would have gone direct to the Department so I don't recall any of it.

30 You don't recall? Are you sure or maybe you just don't really want to recall?---I don't recall it.

35 [12.30 pm]

Because you've read Mr Mileham's account about this?---I haven't actually.

40 You haven't now?---I haven't read - I don't recall reading that. I've had a busy past week.

The evidence, the evidence of Mr Mileham?---I haven't had the time to read the evidence of Mr Mileham.

45 Ms Scaffidi, you have, because you Googled what the Russian balloonist was all about?---I skim-read - - -

Let me finish. The only evidence about the rush and balloonist was in the evidence of Mr Mileham - - -?---It was also in the news - - -

5 Let me finish?---Sorry.

When he was being questioned about this conversation. So you had read the evidence regarding this matter, hadn't you?---I Googled it because there was a news article on it and I couldn't recall the balloonist matter.

10

But you had read the evidence of Mr Mileham with respect to this matter?---I don't recall reading the evidence of Mr Mileham. I might have skimmed over parts of it but I actually have not sat down and read it page by page.

15 So you read in the paper that there was a reference - - -?---I believe I saw it in either an online article or - - -

So you Googled the Russian balloonist?---Yes, I did.

20 And you're saying that you paid enough attention to do that but you didn't - you only skimmed over the evidence of Mr Mileham with respect to this matter?---Yes.

Mr Mileham, again assisted by his notes, says that you told him that, "A strong CEO" and "the next CEO" will do this sort of thing, that is with respect to heading Mr Limnios off at the pass with respect to the complaint that he had made. Do you remember saying something like that to him?---No, I don't.

And that a strong CEO will keep you fully informed, for example, on who is commencing work and when and why, and there was a reference to a new manager being appointed in Economic Development; do you remember saying that to him?---No, I don't.

And you also said, according to his contemporaneous note, said words to the effect of "this and issues like it" are a test for him?---I don't recall saying that and I don't think I - his contemporaneous note is his recollection.

Yes?---It doesn't necessarily mean it's a verbatim note. I don't recollect it. I don't accept that.

40 What, are you saying that you would not have said that?---I don't believe I said that.

Are you saying that you would not have said that?---Yes.

45 You are, are you?---Yes.

Nevertheless, he has noted it in a record of this conversation the next day?---Yes.

5 If you said something like that, it wouldn't reflect well on you, would it?---No, it wouldn't reflect well on me but again, his - what's the word I'm looking for - his impression of what I said and what I might have said, I don't know. It might be - -

He's quoted you here in parts. He's quoted, it wasn't an impression, it's a quote?---I don't accept it.

10 "A strong CEO" and "the next CEO will do this sort of thing and will keep me fully informed", you saying that?---I don't agree.

15 Because you see, it's not so much a threat but sort of a, letting him know with the interview processes looming, whether he's going to be appointed the CEO or not, isn't it?---You're implying that.

It reads like that, doesn't it?---You're implying it. I don't - - -

20 Accepting it was said, accepting that these things were said?---I don't accept it was said.

I know, but accepting it was said, that is the reading between the lines, isn't it?---There's a lot of that here.

25 I know that, but I'm asking you about this. It might be a case of reading between the lines that you don't particularly want to recall, Ms Scaffidi, because it reflects poorly on you but the fact is, if this was said, it is a veiled threat to Mr Mileham, isn't it, in the chances of whether he's going to be appointed CEO?---No.

30 You don't think - - -?---I don't accept that I've said it.

- - - it can be read I've said it. I know that, but I'm just saying if you did?---If I did say it, and I don't accept I said it.

35 I know that?---His interpretation is his business.

Yes, that's the whole idea, if it was said, it was how he was going to interpret it?---No, I don't agree.

40 He also said that you told him words to the effect of, "People are still slouching about and not dressing well." You may well have said something like that, mightn't have you?---Martin and I - - -

45 Might have you said something like that?---At that time, I don't recall. Martin and I had - - -

COMMISSIONER: The question wasn't whether you recall, the question was - -

-?---Not at that time, no.

5 Just wait for me to speak first, Ms Scaffidi, please. The question was, might you have said something like that. That's the question I would like to have your answer on, please?---Might I have said? At that time?

I beg your pardon, what did you say?---At that time, is that what you're asking me?

10 Might you have said something like that was the question. What is your answer to that question, please, Ms Scaffidi?---I can answer that question - - -

Please do?--- - - - by saying Martin and I had conversations about dress standards among staff.

15 So might you have said something like that?---At that time, I don't recall but I'm happy to say I might have said something like that, but I don't know if I said it at that time.

Mr Urquhart.

20

MR URQUHART: And that it was "his fault"?---How could it be his fault?

25 Exactly. That's why it's an interesting thing for you to say that to him. Why might have you said that?---Martin and I shared views about the dress standards across the organisation and it was ahead of Rebecca Moore bringing in a new uniform range - I forget the timeline with which that occurred - and Martin and I had shared conversations about certain observations.

30 So you might well have said that as well, that it was his fault?---At that time, I don't recall but I accept that we had conversations about that issue.

35 Then he says he asked you, "What happened to your message of thanks for support, and that it would never be forgotten"?---For? This was for the - I have a vague recollection, this was for the Liam Bartlett stalking.

That's exactly right?---Okay.

40 And the assistance he provided you after your exchange with Mr Bartlett at the opening of the City of Perth Library?---I don't recall him saying that.

You don't recall him saying that?---No, I don't.

45 But you were very grateful for the support Mr Mileham gave you after that event, weren't you?---Martin showed me appropriate consolation that day.

And you were very appreciative of that, weren't you?---I was.

So he says he asked you that in the context of this telephone call?---I'm sorry but I have no recollection.

5 But you see, Ms Scaffidi, that would suggest that you were being critical of him in the manner in which he has set out in those notes?---I don't agree because I think I've often observed with the three CEOs that I've worked with, and actually I observed it with Martin newly in the role, a level of sensitivity which is understandable because they are new in the role.

10 And you exploited that sensitivity?---No, I didn't.

In this telephone conversation you had with him on 26 July?---I don't accept that.

15 The notes that he made read like you did, don't they?---That's - you know, I didn't realise - - -

Don't they?--- - - - he was that upset.

20 Don't they? The notes read like - - -?---They do read like that - - -

- - - you were doing that?--- - - - and I didn't know - well, I don't see those notes so I had no idea about it.

25 You were involved in the conversation of which you have very little recollection, isn't that right?---I don't have a recollection of it.

30 He also says, or at least his notes say that you noted to him that you and he used to meet once a week and that you commented that the lack of communication between you and him was disturbing?---I don't recall that either.

Yes, but this is interesting, isn't it, because as I understand it, your major grievance with Mr Stevenson was his lack of communication between himself and Elected Members?---Yes.

35 And that was common knowledge amongst the City, wasn't it, that that was a grievance of yours?---Yes.

It's something that Mr Mileham would have known about?---Yes.

40 And now you're, according to his note, saying that the lack of communication between him and you is disturbing?---I just had a thought now about that, that maybe he was pulling back a little bit during the interview period but - - -

45 But did you say that to him?---I didn't say it at the time. I don't know if I thought about it at the time but I can see now that that might have been a situation.

So you may well have said that because he's quoted that?---Okay.

He's quoted that, "Lack of communication" disturbing?---So having gone through - sorry.

5 So again, if you said that, is identifying a problem that you and he have in the relationship that you and he have, you as Lord Mayor, he as Acting CEO and it is the same problem - - -?---No.

- - - that you had with previous CEO?---No.

10

But it is. That was the problem you had with the previous CEO. He's saying, or according to his notes, you are drawing to his attention the lack of communication between the two of you is of concern?---No, I don't accept that.

15 You don't accept what?---That the lack of feeling I had at that time in regards to communication breakdown with Martin was anywhere near like that that was had with Mr Stevenson and Mr Stevenson's was on a whole different scale and it was on a number of levels that were conveyed to me by many people.

20 So how would Mr Mileham know that if you didn't state that to him, but you just left it in that general sense? How would he know that? He wouldn't know, would he?---No, he wouldn't know but he could have queried me on it.

Mr Mileham also made a note of what he felt at the end of this conversation he had with you, "At end of call I believe my application for CEO would not receive fair review", that was the impression that he was left with?---Well, he was wrong, clearly

[12.45 pm]

30

But it was conveyed to him in that manner, according to him. Why on earth would you do anything to make him even wrongly think that?---May I reply?

35 You can answer that question: why would you do anything that would make him wrongly think that?---I wasn't aware that he felt that way because I haven't seen the note. If he felt that way at the time, I would have hoped that he would have said to me something to express that he was feeling that way and as I wasn't intending it that way, I didn't know that he took it that way.

40 You weren't intending it that way even though you knew he had sensitivities - your word, not mine?---Again, you don't know how words do impact people and I accept that.

45 This had a significant impact on him?---Clearly, from the note and I'm sorry about that, I didn't realise.

Was that your intention?---No, it definitely wasn't my intention.

Even though you've got no recollection or very little recollection of this phone call?---I've got no recollection of it.

5 There's your problem though, isn't it, Ms Scaffidi?---No, not really because I didn't realise how I was being perceived by him.

COMMISSIONER: Just finish your question, Mr Urquhart.

10 MR URQUHART: Sorry, sir?

COMMISSIONER: Just finish your question, please. You were halfway through it.

15 MR URQUHART: I think I have. Maybe I will try again.

You didn't appreciate - you had no appreciation of the effect of the words you were conveying to Mr Mileham in this conversation, did you, and yes, I know now, it's difficult for you to counter what he has recorded in his notes?---It is.

20 Given that you don't have a recollection of this conversation?---I don't. I'm sorry, I don't.

25 Yes. So I don't see - so all you can say is, "No, I certainly would not have said that", is that right?---No, I'm not saying that.

Are you saying you said these things or not?---I think sometimes these CEO notes and Gary used to make them - - -

30 Ms Scaffidi, the question is straightforward: are you saying you said these things that he's recorded in his notes or not?---I don't believe I said those things but his notes say that I said those things so I'm happy to accept it, and I think he's interpreted it far differently to what any intended meaning was.

35 The only interpretation he has here is that very last observation that he's made. The rest is an account of the contents of the conversation. You realise that, don't you?---Yes.

40 It's a record?---Yes.

His record of the conversation?---Mm hmm.

Yes?---Yes.

45 And it was a significant enough conversation for him to take those notes of it?---Maybe he was apprehensive about the future prospect of the job. I mean, he ended up getting the job.

Absolutely?---And so - - -

5 I can see why he would be apprehensive about getting the job following this conversation. You would agree with me though, he would be very apprehensive if the contents of the conversation are accurately reflected in these notes?---If they are.

10 So much so Ms Scaffidi, that he not only believed his application for CEO would not receive fair review, but that his substantive role was at risk, that is, his role as Director of Economic Development?---I find that incredible.

15 Yes, it would be incredible for you to leave that impression on your Acting CEO, wouldn't it?---Yes.

It would be a total abuse of your position?---No.

As the Lord Mayor - - -?---And I - - -

20 - - - if the contents of this note are an accurate record of what was said, wouldn't it?---May I reply?

Wouldn't it? Just answer that question?---Yes, but I don't accept - - -

25 I know that. Bear with me for one moment, please, Ms Scaffidi. So that telephone conversation was on 26 July 2016. I'm not expecting you to remember these exact dates but there is evidence that doesn't seem to be in dispute that on 16 August 2016, so that's three weeks later after that conversation, Mr Mileham has his first interview for the position of CEO and then on 29 August the same year there was
30 the second interview?---Mm hmm.

On that same day, 29 August, Ms Battista sent an email to Mr Mileham regarding what had happened at the agenda settlement meeting on 17 August?---Right.

35 You know how I briefly touched on that agenda settlement meeting in which I said to you it appears - well, it was, the Grand Central Hotel was removed from the item for consideration by the Planning Committee?---Yes.

So are you with me?---Yes.

40 Good. Ms Battista was at that meeting, Mr Mileham was at that meeting and a number of others. So I want to now show you that email that Ms Battista sent to Mr Mileham. Madam Associate, 27.1813, please. Does anybody need that enlarged?
45

COMMISSIONER: Let's just enlarge it anyway.

MR URQUHART: Thank you, Madam Associate.

We just start with that page, 1813 and we can see there it's from Ms Battista?---Right.

5

I want to just draw your attention to the second last paragraph there from Ms Battista, who at the time was Acting Director of Economic Development and Activation:

10

I note your concerns over the timing of the most recent report coinciding with the CEO recruitment process. I also note your concerns over the potential for certain agendas being pursued by an officer/officers. However, given my oversight of this matter over the past few months as Acting Director, I assure you the assessment has been robust. Any further work would continue to unreasonably delay the report.

15

Of course, this is the report to do with the - - -?---Yes.

20

- - - the listing, you know what I'm talking about?---Yes.

Thank you:

25

I therefore request your approval to submit the report to Governance as is, with the exception of removing the confidentiality as outlined above.

Should Mr Mileham have been concerned over the timing of the most recent report coinciding with the CEO recruitment process?---No, but how do I know if he is or not?

30

What I'm just asking you is whether he should have been?---No.

35

Was there any reason for - was there any connection between getting this report to Council and the CEO recruitment process?---Not to my knowledge.

If we can go now just to 1812. Ms Battista has forwarded this email on to Ms Green on 28 February 2018 and it reads:

40

Me advising the CEO I thought the handling of 379 Wellington Street, the Lord Mayor's property, was not above board. Essentially, Martin wanted to delay the report going to Council as it would have a negative impact on his chances of getting the CEO gig.

45

I stress that that is Ms Battista's opinion, her opinion only, okay?---Yes, and the date's February 18, so it's a long time after.

That's when she sent it on?---Right.

But you can see there that she actually forwarded - - -?---The earlier, right.

5 Yes, the earlier one on 29 August?---I get it.

Do you see that?---Yes.

Which was on the same day as the second round of interviews?---Okay.

10

Again, I stress, that's Ms Battista's opinion?---So Annaliese sent this to Jemma?

Yes. Don't worry too much about that. Yes, it's on 28 February 2018 when, of course, that's a particularly tumultuous time at the City which we don't need to go into?---Really? I hope we do.

15

No, I'm staying with this matter for the moment. I gather you would deny that that was the case, that Mr Mileham - - -?---Sorry, is that a question to me?

20

Yes, that Mr Mileham would want to delay the report going to Council as it would have a negative impact on his chances of getting - - -?---It's a non-issue as far as I'm concerned.

A non-issue, yes?---Yes.

25

But, you see, on 26 July, that telephone conversation that I've just been through somewhat extensively with you?---M'mm.

As far as Mr Mileham was concerned, he was worried about not just getting a fair hearing for the CEO position, but also retaining his substantive position, do you see? Okay?---I don't see the relation to this.

30

No?---But I see a lot of background in this.

35

Can you can't think of any reason why, if it was the case, that Mr Mileham might want to delay the report going to Council?---No, I don't.

Thank you, Madam Associate, that can come down. Sir, I will perhaps move on to another area, which I'm not going to finish in two minutes.

40

COMMISSIONER: The difficulty we now have, Mr Urquhart, is that the Inquiry is not able to sit this afternoon, regrettably. So how much longer do you think you will be with Ms Scaffidi?

45

MR URQUHART: I would expect another hour.

COMMISSIONER: So it's not too long a time?---That's okay.

Mr van der Zanden, there may be some availability early next week; how are you placed?

5 MR van der ZANDEN: I was going to be here anyway, I believe.

COMMISSIONER: I'm sorry? You're going to be here anyway?

MR van der ZANDEN: I was going to be here anyway, I believe.

10

COMMISSIONER: In that case, I needn't ask you.

MR van der ZANDEN: No.

15 COMMISSIONER: Ms Scaffidi, how are you placed on Tuesday?---Just remind me the date of Tuesday. I think I'm available.

Just give me a moment. Tuesday is 17 September?---So in response, Commissioner, I'm due here on the 19th and the 24th so a day in between is good because of some responsibilities I have.

20

Of course. So the 17th would be available to you?---Yes.

What I will do, rather than try and make arrangements now with you in the witness box is I will ask the solicitor assisting the Inquiry, Mr Parkinson, to confer with Mr van der Zanden when we are adjourned, and we will see what your availability is during that day, and hopefully be in a position to let you know as soon as possible when you will give your evidence on that day. It may not be possible to let you know that until Monday morning?---Of course.

25

30

But if you can reserve some time, I would be very appreciative?---May I ask one question?

Yes?---Approximately how long on Tuesday?

35

How long?---Yes.

I'm told it will be about an hour?---And then re-examination?

40

I don't know that?---Okay.

MR URQUHART: If it's any assistance, maybe allow for the entire morning?---The entire morning?

45

Until 1 o'clock?---Okay.

Just to be on the safe side.

COMMISSIONER: I think Ms Scaffidi would, like me, prefer it not to be the entire morning?---No, I'm okay with either morning or afternoon. It's okay.

5 I'm very grateful to you, Ms Scaffidi. That's very accommodating, thank you. We will try and make sure you're in the witness box than no longer than necessary?---I understand.

10 But I cannot at this stage predict who will make an application, whether they will be granted and how many questions they will have for you. So we best work on the assumption it will be at least two hours?---Okay.

And if it's shorter?---Even better.

15 You and I will both be pleased. Is there anything else? Mr Yeldon?

MR YELDON: I take it Mr Parkinson will notify all counsel.

20 COMMISSIONER: And you take it correctly in that case, Mr Yeldon.

MR YELDON: Jolly good, thank you, Commissioner.

25 COMMISSIONER: Before we adjourn, might I indicate to you Mr Skinner, that I did take the trouble to find out what the proper emoji is for okay, and the result might surprise you.

MR SKINNER: Thank you very much, sir.

30 COMMISSIONER: Thank you. I will adjourn until 10 am Monday morning.

WITNESS WITHDREW

**AT 1.02 PM THE MATTER WAS ADJOURNED
UNTIL MONDAY, 16 SEPTEMBER 2019**

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