

# **EPIQ AUSTRALIA PTY LTD**

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**INQUIRY INTO THE CITY OF PERTH**

**PUBLIC HEARING - DAY 111**

**WEDNESDAY, 18 SEPTEMBER 2019**

**INQUIRY PANEL:**

**COMMISSIONER ANTHONY (TONY) POWER**

**COUNSEL ASSISTING:**

**MR CHEYNE BEETHAM**

**COUNSEL APPEARING:**

**MR TOM FOTHERINGHAM and MS BELINDA RANDALL (MR Robert MIANICH)**

**CAV. MARIA SARACINI (MR Martin Mileham)**

**MR TOM FOTHERINGHAM (MR Robert MIANICH)**

**MS SARAH HARRISON and MR MICHAEL HARRIS (MS Erica BARRENGER)**

**MS BROWYN WAUGH (MS Alexis BARTON)**

**MR MATTHEW CORNISH (DR Jemma GREEN)**

**MR TIM RUSSELL and MR JASON HART (MR Paul CROSETTA)**

**MR PETER MARIOTTO (MR Dimitrios LIMNIOS)**

**MS JUSTINE SIAVELIS (MS Annaliese BATTISTA)**

**MR JONATHAN WYATT (MS Rebecca MOORE)**

**MR NICHOLAS van HATTEM and MR NICK MALONE (MR Reece HARLEY)**

**MS RACHAEL YOUNG and MS LORNA CLARKE (MR Stephen HASLUCK)**

**MR PETER van der ZANDEN (MS Lisa SCAFFIDI)**

.17/09/2019

HEARING COMMENCED AT 9.31 AM:

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

10 Mr Beetham, the procedure that I will adopt this morning is I will have you recall Ms Barrenger. Once she is settled, I will then hear any new applications and take appearances.

15 MR BEETHAM: Certainly, sir. I recall Ms Erica Barrenger.

COMMISSIONER: Ms Barrenger, please come forward and take a seat in the witness box.

20 **MS Erica Margaret BARRENGER, recalled on former affirmation:**

COMMISSIONER: Thank you, Ms Barrenger. You remain on your affirmation from yesterday?---Yes.

25 I will now hear any new applications and take appearances. Mr Fotheringham?

MR FOTHERINGHAM: Yes.

COMMISSIONER: You continue to appear for Mr Mianich?

30 MR FOTHERINGHAM: Yes. Just one housekeeping matter. I have a trial tomorrow so Ms Randall from our office will appear this afternoon.

COMMISSIONER: Ms Randall?

35 MR FOTHERINGHAM: Yes.

COMMISSIONER: Very well, thank you.

40 MR FOTHERINGHAM: No applications.

COMMISSIONER: Thank you. Ms Saraceni, you continue to appear for Mr Mileham?

45 MS SARACENI: Correct, sir.

COMMISSIONER: Ms Harrison, you continue to appear with Mr Harris for Ms Barrenger.

MS HARRISON: Yes, sir.

5 COMMISSIONER: Ms Waugh, you continue to appear for Ms Barton?

MS WAUGH: Yes, sir.

COMMISSIONER: Mr Cornish, you continue to appear for Dr Green?

10 MR CORNISH: Yes, thank you, Commissioner.

COMMISSIONER: Mr Russell, you continue to appear for Mr Crosetta?

MR RUSSELL: Yes, Commissioner.

15 COMMISSIONER: Mr Mariotto, you continue to appear for Mr Limnios?

MR MARIOTTO: Thank you, Commissioner.

20 COMMISSIONER: Ms Siavelis, you continue to appear for Ms Battista?

MS SIAVELIS: Thank you, Commissioner.

COMMISSIONER: Mr Wyatt, you continue to appear for Ms Moore.

25 MR WYATT: Thank you, Commissioner.

COMMISSIONER: Mr van Hattem.

30 MR van HATTEM: Commissioner, I appear for Mr Harley.

COMMISSIONER: Thank you. Ms Young, you continue to appear for Mr Hasluck?

35 MS YOUNG: I do, Commissioner.

COMMISSIONER: And Mr van der Zanden, you continue to appear for Ms Scaffidi?

40 MR van der ZANDEN: May it please, you Commissioner.

COMMISSIONER: Thank you. Mr Beetham, when you're ready.

45 MR BEETHAM: Ms Barrenger, you will recall yesterday afternoon I was asking you some questions about the Targeted Business Model, do you remember that?---Yes, I do.

And that discussion arose from a question I asked you about what, if any, discussion you and the other members of the Executive Leadership Group had at that special Executive Leadership Group meeting on the 27th, about what reason there would be for Ms Battista to be nominated or appointed an Acting CEO, do you remember that?---No, I don't remember it being asked in that way. I thought you asked me why I thought Annaliese had been, I suppose, requested to be Acting CEO.

In response to that, we then started talking about the Targeted Business Model?---Yes, that's correct.

Can you explain to the Commission how it is that the Targeted Business Model has something to do with why Annaliese was being recommended for the role of Acting CEO?---I suppose, probably on hindsight, it's not the reason. What I came to the conclusion, after the Special Council Meeting, so not at the special ELG, was why would Annaliese, I suppose, want the Acting CEO role.

Did you just say you came to that view yourself following the Special Council Meeting?---Yes, that's correct.

The uncorrected transcript from yesterday records this exchange between you and me and I will just read it out to you?---Sure.

I asked:

25

*Was there any discussion at that special ELG meeting about what reason - what that reason could be.*

Being the reason for Ms Battista's nomination, and you said:

30

*Only that Annaliese's Directorate as part of the Target Business Model didn't exist any more.*

So was that discussed, was it, at that special ELG meeting?---No, it wasn't. I'm sorry, I didn't recall - I didn't hear, obviously, that part of the question.

35

As at the morning of the 27th, so before the Special Council Meeting?---Yes.

But as soon as you found out about Ms Battista being nominated or being preferred to be the Acting CEO, did you have a view then as to what reason there was for that?---From the Councillors?

40

Yes. So when you found out that Ms Battista was going to possibly be the Acting CEO, did you turn your mind as to why Ms Battista was preferred over yourself or Mr Crosetta, Ms Moore, or no-one?---Because of her area in activation.

45

Can you expand upon that for me, please?---The motions that Councillor Green,

Hasluck, DLM were normally quite quick projects. That was in temporary activation or projects that would happen in the next six months or sort of, within that time frame. Projects within my Directorate are long-term strategic projects. To do a project, even one of the smallest in my Directorate, takes about a year.

5

Why does that suggest to you that Ms Battista was preferred to be Acting CEO? Can you just join the dots for me between those two things?---Sure. Because, I suppose, she may lead the company - sorry, the City to do more activation projects.

10 And those projects, I think you said, were projects put up by Councillors Green, I think you mentioned, and Hasluck? Were those the two you mentioned?---Green, Harley.

15 Green and Harley, I'm sorry. Was it then your views that Ms Battista was preferred by Councillors Green and Harley because she would be able to move on the projects that they were interested in, is that what you mean?---Yes, that's correct.

20 Is that a view that you held on the morning of the 27th, do you recall?---That I held, yes.

Was it something that was discussed at the Executive Leadership Group meeting?---Not to my recollection, no.

25 Did you have a view that Ms Battista, and I'm asking generally, in the lead-up to the 27th, that Ms Battista was an ambitious person within the organisation?---Yes, I did.

30 Did you have a view that she wanted to be the CEO of the organisation?---She had a drive to be a leader.

35 As to my question as to whether you held a view whether she wanted to be the CEO, is that a yes or a no or - - -?---I hadn't actually thought about it at that point. It all happened on that day, really.

So did you consider it on that day?---When she accepted the position, I did consider it, yes.

40 When you say "accepted", do you mean when she accepted at the Special Council Meeting?---Yes.

45 So did you have that view earlier in the day?---I suppose I didn't - I didn't know if she was going to accept the position. She had been offered. On the phone call there was nothing - no conversation from Annaliese to say she would accept the position that night.

I'm right, aren't I, going back to the conversation that was had about that topic

between you, Ms Battista, and the other members of the Executive, was to the effect of, "Nobody will become Acting CEO out of the ELG, we will wait and see what the Council does", is that right?---I have got it written in my notes. The exact wording was that we would not appoint a CEO before the Special Council Meeting  
5 - appoint an Acting, sorry, CEO.

Amongst yourselves? The group itself wouldn't appoint an Acting CEO, is that what you mean?---That's correct, yes.

10 From amongst that group?---Yes, including Annaliese, who was on the phone.

COMMISSIONER: Ms Barrenger, please speak up?---Sorry.

15 MR BEETHAM: You gave some evidence yesterday and Monday that you considered Ms Battista was potentially following a different plan to the one that you and the Executive had agreed upon, do you remember that?---Yes, that's why I wanted to - I was, I suppose, hoping Annaliese was going to explain a bit more on the phone than what she did.

20 What was the plan that you thought she was pursuing?---I really have no idea.

So why did you think she was pursuing any other plan at all if you had no idea what the plan was?---I suppose because she was considering accepting the Acting CEO position.

25 That's something she expressed to you on that telephone call?---She said she had been offered it and anyone - I suppose if she wasn't considering accepting it, I would have said that she would have turned it down when she was asked.

30 Did you ask her, "Look, Annaliese, are you going to accept the nomination if it comes up"; did anybody ask her that?---Not that I can recall.

Can you just give the Inquiry a sense of how that phone call went? Ms Battista, I think, dialed into the meeting, is that right?---Yes. Mark Ridgwell was reading out the text as the phone rang.

35 And it was Ms Battista ringing Mr Ridgwell?---Yes.

40 And did he put the phone on speaker then?---Yes, he did.

And how long was the call, do you recall?---I don't know. It wasn't that long.

Can you give a ballpark estimate, five, 10, 15 minutes, something like that?---Five or so, 10, yes.

45 What did Ms Battista say?---She said that she'd been asked to be Acting CEO, that she'd been in contact with the State and with the Department and that she was

travelling up from Margaret River - I'm pretty sure it was Margaret River, and that she'd spoken to Martin Mileham and I think - and yes, that she'd been asked to be Acting CEO.

5 When she told you she'd been asked to be Acting CEO, did you or anybody else in the room go, "Oh, by whom"?---I think we already knew, I suppose. I don't know if we asked her - I don't think we asked particularly which Councillor.

10 When you say you already knew, did you suspect a Councillor?---No, I didn't know.

15 So what do you mean when you say you think you already knew?---I just assumed Council had asked her, or one of the people out of the group that had put up for the Special Council Meeting.

So one of Councillors Hasluck, Harley, Barton, Limnios or Green?---Yes.

20 And when she said that she had been in contact with the State and the Department, did you understand those to be different things? Did you understand the State to mean, for example, the Minister and the Department to mean the Department?---Yes, I did.

25 And did anybody ask what she'd been in contact with the State and the Department about?---I think - I didn't know what to say at that point because, we have written the letter and we know that had gone to the Department and we were waiting for a response from the Department and I thought we would get one shortly, like it wasn't that long. So at that point I think I was in a bit of a - my mind was trying to process so I didn't think of asking the question.

30 I think you describe it in your handwritten notes as, you were in shock?---Yes.

Does that sound about right?---Yes, that's right.

35 Do you recall Ms Moore or Mr Crosetta asking anything of Ms Battista about those things?---I can't recall.

I'm going to come back to that meeting and I want to go through the meeting in a bit of detail with you in a moment?---Sure.

40 But just before I do, the letter that you just mentioned, the one to the Department of 12 February?---Yes.

You remember we went to that yesterday?---Yes, that's correct.

45 And I asked you some questions about those corrective measures?---Yes.

And I asked you whether or not you'd given any thought to what those corrective

measures might have been and I think your answer was no, you didn't contemplate it at the time, is that right?---Yes, that's correct.

5 At that stage you hadn't considered, or hadn't discussed with the Executive whether suspension of Council was one of those measures, is that right?---I - sorry, yes that was right, I hadn't discussed it.

10 So at that stage, your recollection was you had not discussed that with the Executive?---Yes, that's correct.

And not contemplated that as a corrective measure?---Yes.

15 You may not know this but I can tell you, you're not the first person we have asked questions about in respect of that letter?---Yes.

20 And we have asked other members of the Executive and two of those members have indicated that suspension of Council was something that was discussed by the Executive Leadership Group in the lead-up to that letter. One of those people was Mr Mileham who gave evidence on Monday, just before you?---Mm hmm

[9.45 am]

25 Knowing that, does that trigger any recollection in you?---No, it doesn't but - no, it doesn't.

I have to say, Ms Barrenger, it's a little surprising, and I would like to see if we can consider it a bit further, a little surprising to me that you would write a letter of this type, the type we saw and I can bring it up if you need me to, a letter which effectively says to the Department, "Look, Department, things aren't great here.

30 We have tried some steps to fix them, those haven't worked. Can you keep an eye on it? If it continues this way, can you take some steps?" That's effectively what the letter says, isn't it?---The way I read the letter is, we have asked them to have a look into what is happening and to give their advice on what they would perceive, if that is not complying with the Act or in accordance with the guidelines. So that would be the first step I would expect back from the Department.

35 Some advice, but the letter goes further, doesn't it, and it talks about corrective measures might need to be brought in and that's something different to advice, isn't it?---Yes, but my understanding was that the corrective measures potentially could be a warning, but not an actual suspension straightaway.

Earlier when I asked you what the corrective measures might have been, you said you didn't contemplate them, you didn't think about what they were?---Yes.

45 And now you've just told me that you thought they could be a warning. Is there a reason why you didn't suggest that as a corrective measure the last time I asked you about it?---I suppose with hindsight, my knowledge is that these are the

potential corrective measures that could happen. At the moment of issuing the letter, I wanted the Department to advise me on that.

5 So that part of the letter that says, in effect - I will read it to you. That part of the letter that says:

*The conduct of Council should continue to be closely monitored and that corrective measures, should same be indicated, are applied swiftly.*

10 What meaning do you give to that on your reading of the letter, where your reading of the letter, as I understand it, is simply a request for advice?---Well, the swiftly is to come back with what they think the measures would be.

15 It says "corrective measures to be applied swiftly", not "advised of to the City" or something of that nature, but to be applied. I'm just wondering, did you - you signed this letter?---Yes, I did.

And you were an Executive of the City at the time?---Yes, I was.

20 And a member of the group responsible for the administration for the City?---Yes.

I take it you read the letter carefully before you signed it?---Yes, I did.

25 And so you would have read that paragraph?---Yes, I would have.

Would you have considered what those words "corrective measures, should same be indicated, are applied swiftly" meant?---What I had said previously, that the measures would be informed to us. I didn't think they would do it without informing us.

30 If I could just ask you to keep your voice up a little as well?---Yes, sure.

35 Please, Ms Barrenger, for the benefit of the transcript. The difficulty I have with the evidence you've given, Ms Barrenger, and I want to be fair to you, is you were a member of the Executive at the time?---Yes.

You've written quite a serious letter to the Department that regulates Local Governments?---Mm hmm.

40 And you've said to them, "There's some issues here, we have tried some things; can you please keep an eye on it and apply corrective measures swiftly if things continue the way they are", and you're saying you gave no thought to what those corrective measures might be? It strikes me as a little bit surprising, Ms Barrenger. So can I just ask you to recollect carefully, to cast your mind back to when this  
45 letter was sent, were there any corrective measures that you'd thought about?---No, I was waiting to be advised by the Department.

COMMISSIONER: What counsel was asking you about, Ms Barrenger, and rightly so, is even if you had not, in your mind at that stage, formulated precise corrective measures, had you at least given some consideration to what they might be? Am I correct, Mr Beetham?

5

MR BEETHAM: Yes, sir.

COMMISSIONER: And I would like your assistance on that too because, like Mr Beetham, I find it strikingly odd that you didn't contemplate any at the time that you put your name to this letter?---So, I know that if the Council was investigated - - -

10

Just come back to my question, please?---Yes, sorry.

15 Did you contemplate any corrective measures, even if they were loose thoughts in your mind at that time?---Yes.

20

That's what I would like to know about. Even if they later turned out to be incorrect, I would like to know what corrective measures you were contemplating at that time, can you tell me?---So I thought that the Department would say that there was a potential - a warning of the behaviour, if they deemed the behaviour to be inappropriate because in my view, we have asked for a review and not being from Local Government previously, this could be potentially a behaviour that is normal to Local Government from the Director-General or from the Department. So in my view, my first check was for them to ensure that this behaviour did constitute that and then with the corrective measures, I thought there would be potentially a warning or - was probably my main thing, was a warning. So that was my main - - -

25

30 That was your main thing?---Corrective measure.

That suggests that there were other things as well. What were the other things that you were contemplating as corrective measures?---Probably the Department to talk to the individual Councillors.

35

Would that be in the nature of a warning or something else?---It would be, I suppose, as a warning.

40

We are back to a warning?---Yes.

So what are the other measures that you were contemplating?---Following on from the warning, obviously if they didn't, then there could be a suspension.

45

So one of the measures that you were contemplating at that time was a suspension, as I understand what you're telling me, is that right?---If we went through that full process, yes.

All right, sure. I understand that your thinking at that time might not have been precisely framed but are you now telling me that one of the steps, the corrective measures as they are described in the letter, might have been a warning, another might have been a suspension of the Council or Councillors?---Yes.

5

Mr Beetham.

MR BEETHAM: Sir.

10 We will go ahead now to the special ELG meeting that happened on the 27th, Ms Barrenger?---Mm hmm.

15 One of the pieces of evidence you gave on the last occasion or the occasion before that was the telephone call with Mr Mileham. He was dialed into the meeting or he - he either rang into the meeting or - - -?---I think he rang or Mark Ridgwell rang him, I'm not sure.

20 But in any event, he was present at the meeting by telephone at some point?---There was a call to Martin Mileham, I'm not sure if it was in between the 8.30 and the 11.15 of that meeting.

When you say you're not sure if it was between the 8.30 and the 1115 of that meeting, was that one continuous meeting where the topic just changed?---Yes.

25 It went from the decision to activate crisis management to the actual crisis management meeting?---Yes. We all stayed in the room and Paul - like I said previously, Paul Gale came in and we were still in the room. I don't believe I left the room between those times.

30 And that's the CEO's boardroom?---Yes, it is.

35 And you're not able to put a more precise time on when that call with Mr Mileham took place? I know you mentioned on Monday you'd been thinking about trying to place it?---I've been trying to place it. I know that we definitely - I can't figure out if it was one or two different calls. I know that we spoke to him to confirm if Annaliese had actually spoken to him and to try and get a bit more information about what was happening, but my recollection is that we didn't get him straightaway, so I don't know whether it was a call back from him or not.

40 Can you recall what motivated the group to call Mr Mileham, given he was on stress leave from the City at the time?---Yes. Annaliese said that she was going to contact him and we said it would be better if the Manager of Governance contacted him.

45 And Ms Battista responded to say - - -?---"No, I'm going to contact him."

So were you trying to get in first?---No, not really. No.

You were just checking in to see whether or not Ms Battista - - -?---What the details were, I suppose, if he had any further information.

5 Did you have any reason to suspect he would have further information, other than Ms Battista had told you that she had spoken with him?---No, I didn't. I didn't really know what to expect. I was just collecting information at this point.

10 I, as you can probably expect, have read through your handwritten and typed notes?---Yes.

I don't recall seeing any mention of this telephone call with Mr Mileham in them?---Yes.

15 Is there a reason for that?---That's what makes me think whether the phone call happened within that time. I remember a phone call and obviously when I was reading through the notes, my recollection was that there was a phone call and I know that we did have a message from him to say that he was coming back on the 2nd.

20 The 2nd, did you say, or the 6th?---The 6th, sorry, the Tuesday?

25 The 6th, yes?---Sorry, yes. So I know we got that information and I must admit, I thought maybe there might have been a bit more notes after the 11, but there wasn't so I wasn't - that what leads me to believe, I'm not sure why it's not in there, unless it was a quick, I suppose, conversation that didn't - I didn't think led to the decision or something like that.

30 Do you recall if you had made the decision to activate the Crisis Management Plan before speaking with Mr Mileham?---My recollection is that we did because I remember telling him, so that's why I think it was quite late in the morning.

35 I think your evidence earlier was your recollection was the crisis management was enacted somewhere around 11?---Yes.

Do you have any recollection of what he said to you, or to the group about the enactment of the plan?---My recollection is he didn't want to be involved in our decision and didn't want to - so really didn't say too much.

40 And did he say why he didn't want to be involved?---He said it was up to the ELG that were there.

45 Did he express a view as to, he just wanted to stay clear of it altogether, it was because he was on leave?---I think so. I think because he was on sick leave.

Did he say that or is that something you're inferring from - - -?---That's something I'm inferring.

During the course of the - I'm going to come to the meeting and step through it chronologically in a moment but during the course of the meeting, the first meeting that started at 8 or 8.30 in the morning?---Mm hmm.

5

Do you have any recollection of Mr Crosetta, Paul Crosetta, stepping out of the meeting at any stage, particularly in the early parts of the meeting?---No, I don't.

Do you have any recollection of him being absent for any period of time before Ms Battista rang into the meeting?---No, I don't.

10

Madam Associate, if you could hand those hard copies of Ms Barrenger's notes to her, the Commissioner and her counsel, please. Ms Barrenger, if I can ask you just to put them to the side and not look at them for the moment?---Yes, sure.

15

Both copies, please, both the handwritten and the typed. If I can just ask you to flip those over so that you've got blank pages facing you for the moment?---Yes, sure.

Thank you. In terms of the events of that morning and that meeting, I'm going to try and go through the chronology and I want you to tell me if I've got it basically right?---Mm hmm.

20

So you get to this meeting?---Yes.

25

And then the very first thing that happens is that Ms Brandon, who was there as Ms Battista's acting, is removed from the meeting, that's right?---Yes, Rebecca asked her to leave.

So Ms Moore asks her to leave?---Yes.

30

That's supported by you and Mr Crosetta?---Yes.

And Ms Brandon leaves the room?---That's correct.

35

And Ms Brandon doesn't come back, does she, until after the Crisis Management Plan is activated?---That's correct, yes.

Which is after 11 am?---Yes, that's correct

40

[10.00 am]

And then you're shown the text message from Annaliese that's on Mark's phone, Mr Ridgwell's phone?---Yes, that's correct.

45

And while you're looking at that, Ms Battista rings in, that's correct?---Yes.

Yes?---Because on my notes I think that I wrote that we called her but it all happened at exactly the same time because we just read - when Nicola left, we said that we would call Annaliese.

5 That's an interesting point. I will ask you about that now: in your handwritten notes you write that, I believe, that it's Ms Battista dialed in?---Yes, that's correct.

"As Nicola left, Annaliese called, 8.40 am", but in your typed notes it says that you called Ms Battista?---Yes, I know. I was wondering that myself.

10

I just wonder if there's an explanation for that?---I just know it happened at the same time. When I did the typed up notes, I had these with me but I was trying to get the chronological order right.

15 I see. So it was a slip-up, was it when you described it in the reverse way?---Yes, it is. I'm going to rely on the handwritten notes.

Are they more contemporaneous? Are they closer to the time of the meeting?---Yes. So the handwritten notes I wrote on the night.

20

The 27th?---Yes.

And the typed notes?---I believe I wrote them after I came back from the long weekend.

25

Did you write the typed notes in response to Mr Ngara's request to have it all documented in the typed form?---Yes.

COMMISSIONER: Just one more question, if I may, Mr Beetham?

30

MR BEETHAM: Of course, sir.

COMMISSIONER: When you wrote up the typewritten notes, did you use your handwritten notes?---I did have them with me, yes.

35

Thank you.

MR BEETHAM: We will go back to the chronology of what happened that morning. Mr Ridgwell shows you the text message?---Yes.

40

And while looking at that, Ms Battista dials in?---Yes.

And you speak with Ms Battista and she tells you that she's been approached to be Acting Chief Executive Officer, that's right?---Yes, that's right.

45

And I think we discussed this a moment ago, you inferred that she had been asked via that group of Councillors that had put forward the motion?---Yes, that's

correct.

And everyone in the room agrees that the ELG won't appoint an Acting CEO, and will wait until the Special Council Meeting?---Yes, that's correct.

5

And you agreed that second part, is that right, that you would wait until the Special Council Meeting to see what Council would do?---I agreed that we wouldn't appoint an Acting CEO.

10 Yes, and you would wait to see what the Council would do in respect to the Acting CEO position?---In regards to Acting CEO, yes.

Ms Battista also tells you that she had been in contact with the State and the Department, that's right?---Yes, that's correct.

15

Did she also tell you she had been in contact with Councillors or any of the Councillors?---In the fact she was asked by them, I would assume but she didn't tell us on the phone.

20 But you could infer that she might have - - -?---Had some contact.

- - - by the fact that she had been asked to be CEO?---That's correct.

25 How long did that call last? About five minutes, I think you said before?---That's what I think, yes.

How did the call end? Did everybody say, "Okay, thanks, that's all"?---That's when she said - sorry, Ms Battista said she was going to call - talk to the CEO or text the CEO, I can't remember the exact words.

30

And this was when you had that discussion about who would do that?---Yes.

And whether or not Ms Moore and your group would or Ms Battista would?---Yes. Ms Moore said that Mark Ridgwell would do it.

35

And then Ms Battista - the call ends?---Pretty much. The call just ended. I believe she was driving or something so it wasn't - it was definitely - Annaliese was in a bit of a rush on the other end of the phone.

40 Did anybody say that the meeting had come to a close?---No.

You know what I mean by that? You've got to these meetings where at the end of the meeting they go, "Now the meeting is closed at 10.48", or whatever?---Yes. No.

45

Nothing like that?---No.

You don't recall Ms Moore saying that, Mr Crosetta or yourself?---No.

5 Did you give any indication to Ms Battista that the meeting was wrapping up? You'd reached a decision, you weren't going to appoint an Acting CEO, you would wait until the Special Council Meeting and that was that?---No.

10 Did you give any indication to Ms Battista that the meeting would continue and other things would be discussed?---I think there was an indication that it would continue.

15 What do you mean by that?---My recollection is, I was on data trying to find out information and advice, so that was one piece. So we would need to talk to legal or - - -

20 Yes, but did you tell Ms Battista - did you say, "Annaliese" - - -?---I can't recall, sorry.

- - - "thanks very much, we are going to talk here, we'll touch base later"?---I don't - I can't recall, sorry.

25 Then after the call with Ms Battista wraps up, you speak with Mr Douglas?---Yes.

30 And you ask Mr Douglas for some advice about a range of things. One of those is whether Ms Battista's conduct constituted a breach of policy, is that right?---Yes, that's correct.

35 And the breach of the Code of Conduct?---If it's a breach of the Code of Conduct was what I remember discussing.

40 Did you also ask whether it was a breach of her employment contract?---Yes, we did, as part of the Code of Conduct, it was connected to the employment contract.

45 That the Code of Conduct was sort of incorporated, was it?---Incorporated within the employment contract, yes.

50 Why were you interested in asking Mr Douglas those things at this meeting?---I suppose to see if we could - again, my focus was to, I suppose, hold off on a Special Council Meeting until we could understand what was happening and get all the pieces together and I suppose one of the ways of holding off would be if we could, I suppose, maybe some guide, I don't know.

55 Were you looking to take steps to suspend or to terminate Ms Battista's employment?---Not to terminate, no, but potentially to, I suppose, prevent her proceeding any further with accepting it, an Acting CEO at that point, until we could get the information on what was actually happening.

60 When you say "the information on what was actually happening", what do you

mean?---I didn't have any idea what was really happening.

You knew that Mr Mianich had gone on leave?---Yes, that's correct.

5 And you knew you were without a CEO?---Yes, that's correct.

You knew there was a Special Council Meeting?---That's right.

Called by five Councillors?---Yes.

10

To change the policy?---Yes.

And appoint an Acting CEO?---Yes, that's correct.

15

Who their preferred candidate for which was Ms Battista?---Yes.

So what else did you need to know?---Why did they want to replace Mr Mianich with Ms Battista as Acting CEO.

20

Why did you need to know that?---I suppose for the reputation of the City. This was a, as I've said previously, out of normal Council cycle, Special Council Meeting. I didn't understand why you would call a Special Council Meeting to change a policy and appoint a new Acting CEO so quickly. Of course, Council can change policy, appoint the Acting CEO, but wouldn't you follow normal Council process of submitting the reports and going up to the normal Council meeting?

25

Sure, but as you say, Council could do this if they wanted to do it, is that right?---They can call a Special Council Meeting, yes.

30

And I think you also took some advice from Mr Douglas about this, about whether or not - - -?---We can advise Council.

That's what he told you?---Yes.

35

But there's nothing you could to stop the meeting going ahead?---That's correct.

And there's nothing unlawful or improper about the meeting?---No, but that was all part of this same discussion of, was there a way - - -

40

That's the advice you were told?--- - - - to delay it. That's correct, yes.

I'm curious to know - - -?---So that was after that discussion you were just talking about then.

45

So you knew all of those things. You didn't know why they wanted to appoint a CEO. One reason could be, couldn't it, I think we discussed on Monday, as of the

27th you didn't have a CEO. I can appreciate you having a concern on the 24th when you had a CEO, on the 25th when you had a CEO and the 26th when you had a CEO but on the 27th, you didn't?---That's correct.

5 So why on the 27th did it matter to you and to the Administration as to why they wanted to appoint anyone as CEO?

MS SARACENI: Commissioner, I just have an objection in relation to perhaps some accuracy. There was a CEO - - -

10

COMMISSIONER: Do you wish to be heard in the absence of the witness?

MS SARACENI: No, that's all - - -

15 COMMISSIONER: Do you wish to confer privately with Mr Beetham?

MS SARACENI: Perhaps, yes.

COMMISSIONER: All right.

20

MR BEETHAM: I understand the objection, sir. I can rephrase it.

COMMISSIONER: Thank you, Ms Saraceni.

25 MR BEETHAM: I will go back a few steps and withdraw my last couple of questions, Ms Barrenger. As of the 27th, you had a CEO and an Acting CEO but they were both on leave, that's right?---Yes, that's correct.

30 So in an operational sense, the day to day conduct of the City at this time, there was nobody in the office in the position of CEO carrying out those duties, was there?---Not at that point in time.

35 In those circumstances, is it not reasonable to think that the Councillors would want to put somebody in the role during the period of leave for the CEO and the Acting CEO?---Yes. That's reasonable.

40 So why was it a concern of the Executive to the morning of the 27th to know why they wanted to appoint somebody?---All I can say is the way in which they went about it, by asking for the Special Council Meeting that led for Rob Mianich to go on to sick leave.

You remember giving some advice to Council about deferring that meeting?---The Special Council Meeting, yes.

45 Do you recall being involved in the preparation of that advice or seeing that advice before it went up to Council?---I did see that advice, yes.

Do you recall it having a reference in there or a suggestion that the steps that Councillors had taken could be victimization of Mr Mianich, do you remember that?---I can't remember the email completely, no - the memo - was it a memo, I don't even know, sorry.

5

When you were having this meeting on the 27th, was that a concern, that the Councillors had put up this motion while Mr Mianich was in the role of Acting CEO?---Yes, I was concerned.

10 What were you concerned about?---I believed that Rob Mianich had acted and Acting CEO previously. He had only been in for a short time, why would you choose to replace him out of Council cycle, or normal Council cycle.

15 Did you have any particular concerns or was it just you were puzzled by the decision or did you think that Council was trying to achieve something or do something with respect to the CEO, Mr Mianich?---I thought Council was potentially looking at removing Martin Mileham as CEO.

20 Can you expand upon that? How did you join those dots?---Well, Mr Mileham was CEO, he's on sick leave and he's appointed an acting.

Yes?---So that's very normal behaviour. Why would you, only a week or so into his acting or his time on sick leave, then try and replace the Acting CEO?

25 How does that lead to a conclusion that Council were trying to replace Mr Mileham?---Well, I suppose that's my only logical conclusion that I can come to. Why would you not leave Rob Mianich as Acting CEO?

30 Let's say they replace Mr Mianich as Acting CEO with Ms Battista?---Mm hmm.

35 And then Mr Mileham comes back on the Tuesday and he's back as being substantively CEO in the office with the day to day contact of the City. The bit that I don't understand is how you go from replacing an Acting CEO to reaching a view that means that the CEO, the substantive CEO will be replaced? Can you elaborate upon that?---I'm trying to elaborate on it. I don't understand why they would need to put in an Acting CEO for - that's just the conclusion that I've come to.

40 So you didn't want to understand why they wanted to appoint a different Acting CEO?---Yes, that's correct.

And the conclusion you reached was, it was to remove Mr Mileham?---Yes.

45 Can you join those dots for me? That's the bit I don't understand. Is there something that was happening at the City, were there discussions at the ELG? You were there on the ground, Ms Barrenger, so you're in a very good position to help the Inquiry understand how it is that you reached that view?---From the - I know

he'd gone on stress leave.

5 Mr Mileham?---I didn't know the particulars, or on sick leave stating stress. I suppose this would cause more to his stress, replacing the person that he's appointed, his acting.

Is that something you thought at the time or is that something you're coming up with now?---I don't know, maybe that just seems logical to me

10 [10.15 am]

15 Did you have any reason to think that these Councillors, the five Councillors that moved the motion, didn't like Mr Mileham?---Yes. I know they had been - I don't know how I knew but I know that part of this letter that he had been writing to the Department was based on, I suppose, experiences he had had.

20 Yes, but the Councillors didn't know about the letter, did they?---No, I'm not meaning that. I'm meaning that I knew that he was potentially having problem with the Councillors in the fact that he had had experiences that he thought - wrote the letter.

And that was indicative to you, was it, that those Councillors didn't like Mr Mileham or had difficulties with him?---Yes, that's what I would conclude.

25 Did you have a view then on the 27th that those Councillors would have liked to have got rid of Mr Mileham?---Yes, I did.

30 Other than what we have just spoken about in that letter, what was your basis for that belief? Why did you think that?---(Indistinct).

35 If the basis here is, Ms Barrenger, that there was lots on at the time and that's the impression that you had from all sorts of things, that's your answer but is there something concrete or is it that type of inference you were drawing?---I'm not obviously across all the interactions between Martin and the Councillors but that was my - I suppose what I had observed was that he was stressed around the Councillors.

40 Those particular Councillors or all Councillors?---I suppose those particular Councillors.

From that, did you form the view that they didn't perhaps want him in the role?---Yes, I did.

45 Did any of the Councillors that you're talking about ever express a view to you directly that they were unimpressed with Mr Mileham or they didn't would not him in the role, he was getting in the way of their program, anything like that?---No, not that I can recall.

Did Mr Mileham ever say to you, "These Councillors - some of those Councillors are out to get me", words to that effect?---Not "out to get me" but that they were - he'd had, I suppose, robust discussions with them.

5

One of the reasons for - and I'm going back to the discussion with Mr Douglas now - for calling Mr Doug was to see what steps you could take to in effect, stop Ms Battista from being appointed Acting CEO, that's right?---No. When we called Mr Douglas, we were asking how did we stop the Special Council Meeting going ahead.

10

Yes, but you were doing that, weren't you, because you didn't want somebody to be appointed as Acting CEO? That's the only real consequence of that Special Council Meeting, isn't it?---Yes, I suppose I didn't want to stop it. I would have potentially delayed it until I knew what was happening and then when we got the advice from Paul Gale that there was going to be the meeting with the Minister, to me it made, I suppose, sense to wait and see what the Minister had to say.

15

Again, I'm just a bit puzzled as to what you mean by what was happening. We have gone through the things that you knew that were happening; was else did you think was happening?---Sorry, I didn't quite get the question?

20

You said you thought that it could be - your preference, I think, was that it would be deferred until you knew what was happening; happening with what?---I suppose until I had further information would be a better way of saying it.

25

About?---About, I suppose, why the Councillors had asked Annaliese to be Acting CEO.

30

Is that something that you need to know about though, for Council to make Council's decision?---Personally, I wanted to know.

I appreciate that, but in your role as an Executive of the City?---Yes.

35

Is it something that you needed to know in order for Council to go about doing what Council wanted to do?---I think to be able to advise Council correctly, I needed to know what - I suppose, all the information that I had and then seek advice or guidance from a specialist, which is what we did.

40

As we were discussing, one of those pieces of advice was whether you could suspend Ms Battista, is that right?---That's correct.

And the reason for that is, you didn't want her to be appointed Acting CEO that afternoon?---That's correct.

45

Was it just Ms Battista you didn't want appointed or would that view have prevailed if, for example, the Councillors wanted to appoint you Acting CEO?---I

don't - my view is I didn't want to be Acting CEO. I believe Paul Crosetta expressed the same opinion and so did Rebecca Moore.

5 My question though is, what I'm trying to understand is, is the objection to the appointment of an Acting CEO an objection to that appointment at all or is it an objection to the appointment of Ms Battista as Acting CEO?---No, appointment at all.

10 So it didn't matter who they preferred, whether it was Ms Battista or somebody else, you, Mr Crosetta and Ms Moore, is it fair to say, didn't want that step taken?---Yes, that's correct.

15 So Mr Douglas told you you couldn't delay or defer the Special Council Meeting?---Yes, that's correct.

And he told you, you couldn't suspend or take any other action in respect of Ms Battista that would have the effect of stopping her from being Acting CEO?---That's correct.

20 As I recall your evidence, it's at that point you ring off the call with Mr Douglas and you start talking about, or Mr Gale raises the Crisis Management Plan?---Yes. I'm not quite sure if we got the information from - probably Paul Gale about the meeting with the Minister's office before or after that, or whether it was about the same time.

25 So either you started talking about the Crisis Management Plan, then you got the information?---I think we would have got the information first because Paul was in the room.

30 So Mr Gale came into the room and told you that there was going to be a meeting - - -?---Yes.

- - - between Council and the Minister the following day?---Yes, that's correct.

35 Did he say what it was about?---No, he just said that Council had been called to the Minister's office at 3.30 the next day.

40 Did you all think, the Minister's going to suspend Council?---I thought he might give them a warning, which is what - to say that - you know, I believe there had been other Special Council Meetings, so I suppose - I'm not fantastic on this knowledge of this area, but that he might say that was inappropriate, the Special Council Meeting.

45 What was the chatter in the room? When Mr Gale said, "Hey guys, the Minister wants to speak to the Council tomorrow", surely there was a reaction to that?---Yes. It was like, "Well, surely the Council won't hold the Special Council Meeting, they will wait to meet with the Minister's office."

Was there any discussion about what the Minister wanted to meet Council for or what the Minister might do?---No, there wasn't.

5 None at all?---No.

Then around this time you started discussing the Crisis Management Plan?---Yes.

10 Against the background that we have just discussed where you have, as a group removed Ms Brandon, had a short call with Ms Battista and not told her that the meeting was going to continue, or to your recollection you didn't tell her that - -  
-?---We didn't say it wasn't, so she literally just called into a meeting.

15 Yes. I apologise, you didn't tell they are one way or the other?---That's correct.

So Ms Battista didn't know that the meeting - didn't know from you positively that the meeting was going to continue?---I think Ms Battista knew that the meeting was going to continue.

20 You didn't tell her that, did you?---No, we didn't tell her but she called into a meeting.

All right, I understand your evidence?---Yes.

25 So Ms Brandon's been excluded, you've had a short call with Ms Battista which has ended?---Yes.

30 You've then sought advice from Mr Douglas about deferring or delaying the Special Council Meeting or having Ms Battista suspended?---Yes, so the other order, if you want correct order, so the first question we asked was about the suspension and then the delaying of the Special Council Meeting.

35 Yes. Both of those were for the purpose of preventing appointment of an Acting CEO?---Yes.

Mr Douglas tells you, you can't do those things?---That's correct.

40 And then you find out about the meeting the following day with the Minister and the Council?---Yes, that's correct.

And then discussion turns to the Crisis Management Plan?---No, I believe we communicated to the Council about the meeting the next day in the hope that they wouldn't continue with the Special Council Meeting.

45 So in that communication, what you think occurred with the Council?---Yes.

Did you take that opportunity to say, "Councillors, why are you appointing an

Acting CEO"; this is one of those things you wanted to know?---I didn't have communication with the Councillors.

Who did?---I'm not sure if it was Rebecca or Mark Ridgwell.

5

So somebody else spoke - - -?---And they came back and said they continuing with the Special Council Meeting, so I don't know what the conversation was. That was the only information I was given.

10 So you have the information from Mr Gale that there's going to be a meeting the following day between the Minister and Council?---Yes.

Then somebody tells Council about that and suggests to them that they defer the meeting the, the Special Council Meeting?---Sorry, you lost me there for a second.

15

Of course. I tend to speak very quickly, so if I'm going too fast, please let me know, Ms Barrenger?---Okay.

Mr Gale tells you about the meeting the next day?---Yes.

20

Somebody, Ms Moore or Mr Ridgwell tells Council about the meeting?---Yes, that's correct.

And suggests to Council that they not go ahead with the Special Council Meeting?---Yes, that's correct.

25

After that happens, you then start talking about - sorry, and Council tells you that they are still going to go ahead with it?---That's correct.

30 And after that you turn to discussion about the Crisis Management Plan?---It wasn't particularly about the Crisis Management Plan. Neil Douglas said, "Do you have any policies and procedures that would allow you to nominate someone in the absence of the CEO and an Acting CEO."

35 Yes, but in terms of the chronology, that's what happens?---Yes, then we started looking at the policies about what we could use.

In that context, I'm interested in your views on this, it seems to me, and I suggest it might seem to a third party observer that the turning to the crisis management at that point was done for the purposes of finding another way to delay or defer that Special Council Meeting, is that one of its reasons?---Though because it allowed us to nominate a Crisis Manager who could hold the Special Council Meeting or who could sit next to the Lord Mayor at the Special Council Meeting.

40

45 Yes, we discussed that on Monday but my question is, was it also part of a plan to see if you could achieve the purpose that you were trying to achieve, which was to delay or defer the Special Council Meeting?---No, because they were continuing,

so I - my view is it was to allow someone to attend the Special Council Meeting.

So there was no discussion, you had gone from this discussion about how do you delay or defer the Special Council Meeting with Mr Douglas?---Yes.

5

And you've gone through a couple of options of how you could do that?---Yes.

And you've told the Council to do that, or Mr Ridgwell or Ms Moore has?---Yes.

10

And then you've changed tack and you've gone, "Oh well, it's happening, how do we support it" and the best way to support it is through a Crisis Management Plan?---You're missing a step where we called the Minister's office because we only had a loose idea about the Crisis Management Plan and when we called the Minister's office we asked them again, is there a way they could direct the Council to not complete the Special Council Meeting, so - - -

15

I will interrupt you there, Ms Barrenger. I understand that but am I right in thinking that the discussion about the Crisis Management Plan started before you called the Minister's office, then after the discussion started, you called the Minister's office and said, "Look, we are thinking about this Crisis Management Plan"?---I suppose what we were looking at was what options did we have. One of them was the Crisis Management Plan and I suppose my logical next thinking is, call the Minister's office, ask them if they can do something about the Special Council Meeting. So to go back to your last question, so we have checked with the Minister's office, they can't do anything. We have spoken to the lawyer, not that, so the Special Council Meeting's going ahead. We then need someone to sit next to the Lord Mayor at the Special Council Meeting.

25

So you've asked the Minister's office as well what they can do to defer or delay the Special Council Meeting?---That's correct.

30

So that was still a primary topic of conversation and purpose for the ELG?---Yes.

And then a decision is made to enact the Crisis Management Plan?---Yes, so we could have a Crisis Manager - - -

35

A Crisis Manager?--- - - - sit next to the Lord Mayor at the meeting that night.

That's the reason you say why the Crisis Management Plan was enacted, so that somebody could sit next to the Lord Mayor at a meeting that afternoon?---I know what you're saying.

40

Is that the reason?---We needed a policy that allowed us to nominate someone. When we read through the plan, it did apply, so going back to what I said in my last hearing.

45

Does the plan say in it, "This will enable somebody to sit next to the Lord Mayor

at a Council meeting"?---No, it doesn't but in my evidence the other day we already, I thought, had established that my reasoning for the Crisis Management Plan was the threat to reputation and to the health and safety of the staff, which are still going through all this at this stage.

5

[10.30 am]

Yes?---So that had already been established at the beginning, that this, we believed at the time, was a document that could be used - - -

10

I understand all those things, Ms Barrenger but what I'm asking you about is, when you look at it as an observer, and you see the steps that the ELG has taken, and every step that you'd taken up to the point of enacting the Crisis Management Plan was a step directed towards deferring or delaying the Special Council Meeting or disrupting Ms Battista's appointment as CEO, every step that you're taking. Against that background, it seems like the Crisis Management Plan and activation was just another step to fulfil that purpose. Can you understand why it might appear to somebody that that's what you were doing, that's what the ELG were doing?---That it might appear like it?

15

Yes, that's my question. Can you understand from a third party looking at what happened, looking back at what happened?---Yes.

20

In that context, that it looks like you enacted the Crisis Management Plan, at least in part, if not entirely, for the purposes of deferring that Special Council Meeting?---No, I don't.

25

You don't accept that somebody can look at that series of facts and reach that view?---No, I don't.

30

Why is that a view that you think is not a reasonable one to reach, objectively looking at those facts?---I suppose I was there and that was the process and my reasoning is - - -

35

I appreciate what your reasoning was?---Yes.

But I'm asking you, why do you reach the view that somebody else looking at it as an outsider couldn't reasonably come to the position that you enacted the Crisis Management Plan for a purpose or the purpose the deferring the Special Council Meeting?---We didn't enact it to defer the Special Council Meeting.

40

COMMISSIONER: Ms Barrenger, listen carefully to me, please?---Yes.

I have noticed that over the course of your evidence, you have on a number of times been asked questions and you've not answered them. What you are required to do is answer the question, not to say something else?---Okay.

45

Do you understand me?---Yes.

5 So what I want you to do from this point on, please, is listen very carefully to the question and when you've understood it, then I want you to answer that question, not say something else?---Okay.

Do you understand me?---Yes.

10 If you do not understand the question that you're being asked, then just tell counsel that?---Okay.

All right.

15 MR BEETHAM: The question, Ms Barrenger, is, can you explain why you reached the view that it's not reasonable for a third party, objective person looking at it from the outside, to look at that series of facts and form the conclusion that the Crisis Management Plan was enacted, in part or in whole, to derail the Special Council Meeting?---No.

20 You can't explain why you reached that view?---No.

But you do hold that view but you're not able to explain why?---I don't - can you rephrase your question that you're asking me?

25 Of course. We have gone through the series of events that occurred on that morning?---Yes.

30 And all of the events up until you exercise the Crisis Management Plan were directed towards deferring, delaying the Special Council Meeting and Ms Battista's appointment, yes?---Yes.

That's what you sought Mr Douglas' advice about, that's what you asked the Minister about?---That's correct.

35 Knowing that happened, the next thing that occurs is that the Crisis Management Plan is activated?---Yes.

40 When I look at that as an outsider, one of the views I could reach is that the enactment of the Crisis Management Plan is simply the continuation of those earlier attempts to disrupt the Special Council Meeting; do you understand what I mean by that?---Yes, I understand what you're saying.

45 And I had understood your evidence to be that you didn't think that was a view that a third party could reach of those facts?---A third party could reach that view.

An objective third party looking backwards at it could reach that view?---In hindsight, yes.

But you're saying that it had nothing to do with delaying or deferring the Special Council Meeting?---Not, not if you're referring to the Special Council Meeting, no.

5 And your evidence is that one of the reasons for the enactment - not the only but one of them was so that somebody could be involved at the Special Council Meeting that afternoon on behalf of the Administration, is that right?---Yes, that's correct.

10 Madam Associate, could you please pull up the document at 11.0495, TRIM reference 14307. Before you read this document, Ms Barrenger, is there any reason why, during discussion about the Crisis Management Plan and these other discussions that you had with the Minister and Mr Douglas, that Ms Brandon wasn't called back into the room or Ms Battista wasn't contacted?---So was your  
15 question about why they weren't?

Why were they not contacted or brought back into the room?---In hindsight, they should have been.

20 One of the views that could be taken, that failure to invite them back into the room or call them is that you were expressly excluding them because the steps that you were taking, including the Crisis Management Plan, was to prevent Ms Battista being CEO, you didn't want her to know that; was that a consideration?---Was it a consideration?

25 COMMISSIONER: Ms Barrenger, you've been asked not to look at that document, please don't?---Which document, sorry?

30 The one at the screen in front of you?---I'm sorry, I wasn't looking at the document. Sorry can you ask your question again?

MR BEETHAM: Do you want me to repeat the question?---Yes, sorry. I was thinking.

35 COMMISSIONER: Madam Associate, just take that document down for now, please. Thank you.

MR BEETHAM: During this whole period from 8 until 11?---Yes.

40 Ms Brandon and Ms Battista, other than that short period at the start, weren't involved, is that right?---That's correct.

45 During this period you were talking about, you were talking about things with Mr Douglas, the Minister and then the consideration of and activation of the Crisis Management Plan?---That's correct.

And you didn't include Ms Brandon in any of that?---No.

And you didn't include Ms Battista in any of that?---No.

5 And a view that somebody could reach, I'm suggesting to you is that that was a deliberate decision of the Executive to exclude those people because you didn't want ultimately Ms Battista to know that steps were afoot to try to disrupt the Special Council Meeting; is that something that was going on?---That was not my, I suppose, recollection.

10 COMMISSIONER: But that's not the question you're being asked, is it?---Sorry, what was the question?

15 MR BEETHAM: Is that what was going on? Is that the reason why those people weren't in the room?---No, not to me but in hindsight when you say it now, yes. I don't think - I think a reasonable person would think that they should be back in the room.

You can see why somebody would form that view?---Yes.

20 That in that context you were trying to keep Ms Battista in the dark?---Yes.

But you say you weren't trying to do that?---No. It all happened too quickly in that morning. Like I said previously, it felt like a blink of an eye after - yes.

25 It just seems a bit strange to me that it didn't occur to any of the three Executives in the room that somebody was missing from that discussion, but it didn't seem strange to you or it's not something you considered?---No, I was concentrating on the calls to Neil Douglas and to the Minister's office.

30 I assume from your evidence that neither Ms Moore nor Mr Crosetta said to you either, "We should get them back in" or "let's not get them back in"?---No, I don't -  
- -

35 If we can bring that document back up, please, Madam Associate, that's 11.0495. So this is a memorandum to the Lord Mayor and Councillors?---Mm hmm.

You will see it's dated 27 February, the day we are talking about?---Yes.

40 And the subject is, "Enacted Business Continuity Framework", yes?---Yes.

And it's from Mr Crosetta, Ms Moore and yourself?---Yes, that's correct.

Absent from that "from" list is Ms Battista's title, isn't it?---Yes, that's correct.

45 Do you recall preparing this document?---No, I didn't prepare the document.

Did you approve of the document, given it went out from you?---Yes, I would have

reviewed the document.

COMMISSIONER: Sorry, what did you say?---Yes, I would have been aware of the document.

5

Thank you.

MR BEETHAM: When you say "would have", do you actually have a memory of seeing the document?---Well, as part of the Crisis Management Plan, my role is to be with the employees. So I was walking the floors.

10

But do you recall this letter?---I know that the memo was sent.

You will see in the first paragraph it says - this is from Rebecca Moore on behalf of the three of you:

15

*I wish to advise that the Executive Leadership Group met this morning and has activated the City's Business Continuity Management Processes.*

20

Then it goes on to say that she, Ms Moore "had assumed the role of Crisis Manager." Then it goes on in the next paragraph to indicate:

25

*The Minister for Local Government has requested a meeting with Elected Members.*

The following day?---Yes.

30

And the next paragraph is the one I'm interested in:

*The Administration recommends that to minimise disruption to staff, City operations and to ratepayers, that any further changes to the Administration be placed on hold pending the outcome of that meeting tomorrow with the Minister.*

35

?---Yes.

Read together, those paragraphs suggest - I'm interested in your view as to whether they suggested that one of the reasons for recommending that the Council places the meeting on hold is the meeting with the Minister, but also because the Business Continuity Management Process had been enacted and a Crisis Manager had been appointed, do you agree with that or disagree with that?---I don't quite get your question because you're referring to the second two paragraphs that say, no more changes to Administration, which to me would mean an appointment of an Acting CEO.

40

Yes?---Until they meet with the Council.

Meet with the Minister?---Meet with the Minister the next day.

5 And reading that paragraph in the context of the first paragraph, I'm curious as to your view as to whether, although it's not expressed in the third paragraph, one of the reasons suggested to not, or to delay the meeting is because the Business Continuity Management Process had been enacted and a Crisis Manager had been appointed?---That's not how I read that.

10 And that wasn't the intention?---No.

You can take that document down, please, Madam Associate. When you spoke with Mr Douglas on the phone during the special ELG meeting?---Yes.

15 I think your evidence from Monday was that portions of the Crisis Management Plan were read out to him?---Yes.

20 Is it your evidence that that was done before or after the enactment of the Crisis Management Plan?---Before.

And was it read out to him, in your view, to get his advice as to whether it was appropriate to enact the Crisis Management Plan?---Yes, because he'd asked us, did we have any policies or procedures, I believe in the first phone call, because we called him back when we had found this policy and procedure.

25 I want to be clear on that evidence. Did he say to you, "Do you have any" or did he say to you, "Follow process and procedure"?---I'm sorry, I can't recall those two different words. He said "follow" - - -

30 You remember the reference to "process and procedure"?---"Process and procedures" is what I remember.

35 But you don't quite recall whether or not he asked you whether you have any or simply telling you to follow them, is that right?---He just said - my recollection is - - -

COMMISSIONER: Speak up, please, Ms Barrenger?---My recollection is to "follow process and procedure."

40 MR BEETHAM: Do you recall anything else in that conversation with Mr Douglas? Did he say anything to you about the appropriateness of using that plan?---When we called him back and we read out of the Crisis Management Plan, he was supportive of it. That's why we called him back.

45 What do you mean he was supportive of it?---I don't know his exact words but he said, "Okay" or, you know, he implied it was okay.

[10.45 am]

5 But did he say, "Thanks for reading those passages out, my advice to you is X, Y, Z"---I don't know, probably more like, "Sounds good" or - it's not a lawyer would say but that was the impression and that's what I recall. He didn't say - he didn't advice us it was inappropriate to use that plan.

10 Did he expressly advise you it was appropriate?---That's what I took, that it was okay, from the conversation.

If you could turn your notes over now. As I said, I've looked through these notes and there is some reference to taking advice from Mr Douglas in relation to the Special Council Meeting and Ms Battista earlier in the day?---Mm hmm.

15 And there's some notes in your handwritten notes to the effect that you - the Crisis Management Plan was mentioned to Mr Douglas?---Yes.

20 That's in your typed notes, but in neither version of the notes, as far as I can see and invite you to have a look and tell me if I'm wrong, is there any note of any advice Mr Douglas gave about the activation of the plan?---The only bit that I'm referring to, it says in the middle of the second page that we called Neil back and we ran through the proposal to activate the Business Continuity and Crisis Management Plan.

25 Yes, but there's nothing further in that document, is there, to say, "And Mr Douglas said"?---No, I didn't write down what Mr Douglas said. That's probably a fault of my note taking.

30 If you're taking advice on the enactment of the Crisis Management Plan, which is quite a - it's not something you'd enacted before, is it?---We had had the practice.

No, I mean in an operational setting?---Yes, we ran through it as an operational practice run.

35 In real life?---No.

So it was a novel thing to do?---Excuse me?

40 It was a novel thing to do?---What you mean by that?

A unique or unusual thing to do?---It was the first time.

45 Yes. I think your evidence from Monday was that when you had the meeting on the following morning, you all decided that the plan wasn't particularly clear and needed some changes to it. You all recognised that the plan was a bit tricky, is that fair?---Yes.

5 So in those circumstances where you're dealing with an unclear, tricky, plan that you've not enacted before and you're speaking to a lawyer about it, you would think you would take a careful note of any advice you received from that lawyer?---Can I just say that once you enact the plan, it's very clear. So the processes that you follow - - -

COMMISSIONER: Ms Barrenger?---Yes.

10 Just a short while ago I asked you to listen to the question carefully and to answer the question?---Okay.

At some stage in this process, I'm going to have to make some findings about your evidence and the way in which you've given your evidence, perhaps?---Okay.

15 So I would urge you to take my advice seriously?---Yes.

MR BEETHAM: So would you agree with me in those circumstances it would be prudent, at least, to take a careful note of any advice you received about an enactment of that type of plan?---Yes.

20 I want to suggest to you, the fact that there is no note in your notes about that advice indicates that it's unlikely that you actually received any advice from Mr Douglas about the enactment of the plan?---No.

25 You disagree with that?---Yes, I do.

You're not able to give any detail as to what that advice was, as I understand your evidence? Portions were read out to him and he said - - -?---He was supportive, is my recollection.

30 Mr Douglas has been asked questions about this morning - when I say "this morning", I mean the morning of the 27th and the telephone calls that he had?---Mm hmm.

35 And his evidence - I will tell you what his evidence is in summary?---Okay.

He recalls giving advice about Ms Battista's contract and those matters?---Yes.

40 He recalls giving advice about procedural steps relating to the Special Council Meeting and to the effect of, that there was no reason why it couldn't go ahead and that your role was to advise and facilitate, yes?---Yes.

And that's consistent with your recollection?---Yes, it is.

45 He said that he's never seen the Crisis Management Plan, but on the morning of the 27th that wasn't a significant issue for you because, and I don't know if you know this, that was the day that he was delivering his review report on Project

Percy?---No, I didn't know.

5 He said it was not his suggestion to activate the Crisis Management Plan and has no recollection of giving advice on whether there was a sufficient basis to enact the Crisis Management Plan. That's his evidence. Do you disagree with that last part, that he gave advice on whether there was a sufficient basis to enact the plan?---Yes - well, I don't - yes, I disagree.

10 Mr Douglas has also provided the Inquiry with a copy of a note he took on that day at 10.30 am?---Mm hmm.

Does that sound about the time that you were speaking with Mr Douglas?---Yes, that says we sought advice from him at 9.

15 Yes, so that's the first round of advice, I think. You will see it talks about the delay of the Special Council Meeting?---Yes, called him back, yes, around 10.30, yes.

20 When you say that's what it says, you're talking about your typed notes, is that right?---Yes, that's correct.

25 He has a note from 10.30 that morning which says, amongst other things, "City has activated business crisis plan" and his evidence is that when he was called, that the decision had been made and it had been communicated to him that the plan had been enacted, not that his advice about whether to enact it was sought; do you have anything to say about that?---Except potentially when we rang him we said, this was our proposal, definitely was only a proposal, in my view at that stage, because it wasn't until we clarified with the Minister's office that they thought it was a good idea that we would initiate the Crisis Management Plan. So all I can think is that what Neil is saying was that he advised us to do policy and procedure and we called him back and we would have said, "This is a policy and procedure that we have found" and I took that as, with him not saying that he objected to it, that it was accepted.

35 Do you have a clear recollection of asking him something to the effect of, "Mr Douglas, we have got the Crisis Management Plan, we have either enacted it or are about to enact it, do you think we should? Is it your legal advice that yes, we should"?---All I know is that we had told him that we'd found this policy.

40 COMMISSIONER: What was the question you were asked, Ms Barrenger? Do you remember the question?---Sorry, I didn't get that question.

45 MR BEETHAM: Did you say to him, or did anyone in the ELG say to him, "We have got this plan, we have either enacted it or we are about to enact it, is your legal advice that that's proper, or there's a proper basis for it"?---I don't know if we used that exact words but that was our purpose. Our purpose of calling Neil Douglas to say - - -

COMMISSIONER: Ms Barrenger, what I'm interested in is what you remember?---Okay.

5 Not what you think might have happened, not what you would like to think happened but what you remember?---I remember - - -

10 If you don't remember something, best to say that. If you do remember something, then say that and just bear in mind, please, this thing, which I think in fairness I need to alert you to now, and that is that this Inquiry has heard from a number of witnesses and has a number of documents which you might not well be aware of?---Yes.

15 So I'm going to ask Mr Beetham to ask that question again and this time I would like you to tell me, in answer to that question, what you actually remember.

MR BEETHAM: I will try and put the question again in the same terms, if I can remember it?---Yes.

20 Did you or any of the other members of the Executive, while having this call with Mr Douglas, say to him something like, "Mr Douglas, we have got this plan, we enacted it or are about to enact it, can you give us your legal advice about whether there's a proper basis to do so"?---I can't recall the exact wording.

25 Ms Barrenger, I now want to move ahead in time on that day, away from the meeting that you had in the morning and to the Special Council Meeting that afternoon. You were there at that meeting?---Yes, at the Special Council Meeting I was.

30 And other members of the Executive were also there?---Yes, I believe so.

Do you have a recollection of that?---I know that Rebecca was there and that Paul was there and that Nicola Brandon was there.

35 Was Mr Ridgwell there?---Yes, he was.

Can you recall who of the Councillors were there?---I know that the Lord Mayor was there.

40 Were the five Councillors who moved the motion there, and I don't want you to assume that they were because they were the Councillors who moved the motion, I'm just asking if you remember?---Okay. I can't recall exactly who was in that meeting.

45 In the lead-up to the meeting, did you have any discussions with anybody in the afternoon about what was going to happen at the Special Council Meeting?---Not that I recall.

Did you have any discussions, to your recollection, with any of the Councillors before going into the meeting?---No.

5 During the meeting, did you observe any factionalism at the meeting, if I can use that phrase?---Yes.

What did you observe?---That the group of people, because the faction that you were talking about is on the side that I sit on, went out to discuss - - -

10 Something?--- - - - out a separate door than the Lord Mayor who went out the other door.

When did this happen?---My recollection is when they were trying to call Annaliese Battista.

15 I've heard the audio of that meeting, I've read the minutes. Perhaps you can help me with this: they passed the motion to amend the policy first, that's right?---Yes.

20 Do you remember? Yes, and then you say they tried to contact Ms Battista?---That's what I recall, yes.

Why were they trying to do that?---To confirm that she was happy to accept the position of Acting CEO.

25 And that she had been at that stage been nominated in the Council Chamber, had she, as preferred appointment?---I believe so, yes.

Who tried to contact her to confirm that?---I think it was Mark Ridgwell.

30 Did Council adjourn while this was happening?---Yes, I think we did, yes.

Is that when they went out separate doors?---Yes, that's correct.

35 I've not been in the Council Chamber so perhaps you can paint a bit of a picture for me, but did those five Councillors all leave together through one door, did they, in the room?---I don't know if it was all of them, definitely a group left via our side of the Council.

40 Does the Lord Mayor sit at the top of the table?---Yes, she does.

And are you on the left or the right of the Lord Mayor?---I'm on the right side of the Lord Mayor.

45 Did they exit through a door on the right-hand side?---Yes, they did.

Did the Lord Mayor remain in the room?---I know she exited out the other door at some point but whether - they did try and call Annaliese a few times.

Yes?---My recollection is that she remained in the Chair the first time.

5 I see, and did anybody else remain - any of the other Councillors remain in the room that you remember?---No, I don't, sorry.

10 It's a bit of a vague question: can you give any indication to the Commission about what the mood in the room was like, the feeling in the room?---A bit tense, I suppose.

15 Where was the tension coming from, or who was it between or what was it about?---I don't know, I just know it had been a stressful day.

It felt like a tense moment, did it?---Yes.

15 [11.00 am]

20 At that meeting was there any discussion that you heard or that you were involved in as to why Ms Battista was preferred or nominated in circumstances where she was on leave and not present in the room on the night?---Sorry, can you just repeat that?

Of course?---The part that you just said then.

25 Was there any discussion that you heard or that you were involved in about why Ms Battista was being nominated in circumstances where she wasn't there?---No.

You didn't hear anything about that?---No, I did not.

30 As I understand it, following that Special Council Meeting after the voting had occurred and Ms Battista was installed as the Acting CEO?---Yes.

35 There was another, what I will call informal meeting and I understand that present at that meeting was the Lord Mayor, Councillor Adamos, Ms Moore, Mr Crosetta, Ms Brandon, Mr Ridgwell and yourself; do you remember that?---No, I don't remember that.

40 Can you remember where you went following the Special Council Meeting?---I went home, I thought.

Straightaway?---No. We went downstairs for a press conference.

45 Who went downstairs for a press conference?---The Lord Mayor did and I think the Executive went downstairs too.

So that was yourself and Ms Moore and Mr Crosetta?---I think so. I don't know if there was others as well.

You can't recall - - -?---No.

- - - with precision who was there?---I remember that - no, sorry.

5

Is that normal?---I remember Rebecca.

Do you remember yourself and Rebecca?---Yes, I do and I remember a man so I think it was Paul.

10

Paul Crosetta, but you just remember it being a male and you actually don't - you just assume it was probably Paul?---Yes, so let's say myself. I know I went down.

Is that normal, to go out the front of Council House with the Lord Mayor to give a press conference following a Council meeting?---No.

15

Is it something you had done before?---No, it wasn't - I had done press things with the Lord Mayor previously but not after Council.

20

I might just ask you to speak up again, Ms Barrenger?---Sorry, yes.

Whose idea was it to do the press conference or the statement that afternoon?---The Lord Mayor and Rebecca thought it would be a good idea to support Martin, if we went down and said - I can't remember what the speech was but it was that pretty much we supported Martin still as CEO.

25

Did anybody seek Mr Ridgwell's advice, for example, as Governance Manager about whether it was appropriate for members of the Executive to front the media with the Lord Mayor?---No. I don't have a good recollection of the time, so - - -

30

Do you recall giving that any consideration yourself?---I do, yes.

What view did you reach?---I suppose in hindsight, I wished I hadn't gone down there and probably gone straight home but at the time I did want to show my support to Martin Mileham as CEO.

35

Did you consider that it might give an appearance at least of showing support to the Lord Mayor as well?---Yes, I do in hindsight.

40

Did you consider that at the time?---Not at the time I didn't, no.

You thought it was just showing support for Mr Mileham?---Yes, I did.

If you could just bear with me for one moment, Commissioner.

45

COMMISSIONER: Yes, of course.

MR BEETHAM: Commissioner, those are all of my questions for Ms Barrenger.

COMMISSIONER: Thank you very much. I will now hear if there are any applications to examine the witness.

5

MS WAUGH: I have an application, please, Commissioner.

COMMISSIONER: I will come to you in a moment. Mr van der Zanden, do you have an application?

10

MR van der ZANDEN: No, I don't, Commissioner, thank you.

COMMISSIONER: Thank you. Ms Young?

15

MS YOUNG: I do not, Commissioner.

COMMISSIONER: Thank you. Mr van Hattem?

MR van HATTEM: No, Commissioner.

20

COMMISSIONER: Mr Wyatt?

MR WYATT: No, Commissioner.

25

COMMISSIONER: Thank you. Ms Siavelis?

MS SIAVELIS: No, Commissioner.

COMMISSIONER: Thank you. Mr Mariotto?

30

MR MARIOTTO: No, Commissioner.

COMMISSIONER: Thank you. Mr Russell?

35

MR RUSSELL: No, thank you, Commissioner.

COMMISSIONER: Thank you. Mr Cornish?

MR CORNISH: No, Commissioner.

40

COMMISSIONER: Ms Waugh, I will come back to you in a moment. Mr Fotheringham, do you have an application?

MR FOTHERINGHAM: No, Commissioner.

45

COMMISSIONER: Ms Saraceni?

MS SARACENI: No, Commissioner.

COMMISSIONER: Thank you. Ms Harrison?

5 MS HARRISON: No, Commissioner.

COMMISSIONER: Thank you. In that case, Ms Waugh, I'm going to have Ms Barrenger excused from the hearing room while I hear your application and you may want to position yourself in front of a microphone so it can be adequately recorded. Ms Barrenger, it's no reflection on you, this is the process which has  
10 been adopted by this Inquiry for all witnesses in circumstances like this. So I'm going to have you excused from the hearing room while I hear the application?---Okay. Thank you.

15 Thank you.

**WITNESS WITHDREW.**

COMMISSIONER: Yes, Ms Waugh.

20

MS WAUGH: Thank you, Commissioner. It's only a discrete issue. Ms Barrenger gave evidence in respect of Councillors voting in blocs, but she also gave evidence that she didn't attend all of the Council meetings, she had quite a bit of time off during January and February and that she had behaviour reported to her  
25 by Mr Mianich in respect of Councillor Green's conduct at a Council meeting. My question to her really is, what is the basis of her view that the Councillors were voting in blocs?

COMMISSIONER: Ms Waugh, thank you for that. You may not appreciate this but the question of Councillors voting in blocs has been comprehensively  
30 examined in a number of hearings, so I'm going to have to ask you how you think your examination on that topic will advance the purposes of this Inquiry?

MS WAUGH: I'm of the view that - obviously I'm acting for Ms Barton.

35

COMMISSIONER: Yes, I know.

MS WAUGH: I'm unaware as to whether those questions will be put to Ms Barton and if they are not put to Ms Barton, I would like to explore the basis  
40 from Ms Barrenger as to where she came of the view that the Councillors were voting in blocs.

COMMISSIONER: I'm not at all questioning your motives or the propriety of them, but I must first of all consider whether they will advance the purposes of the  
45 Inquiry. So I will just ask you to take a seat and I will hear from Mr Beetham on that. Mr Beetham, how do you respond?

MR BEETHAM: I don't have an objection to the question being asked, sir. I can understand that, in the context of the other evidence the Inquiry has heard about that issue, it may be of limited utility. However, I apprehend the question will be short, the answer will be brief, so I don't object to it on that basis, sir.

5

COMMISSIONER: So it's your position that it will advance the purposes of the Inquiry in some respects?

MR BEETHAM: It may, yes.

10

COMMISSIONER: Ms Waugh, I remain of the view that your examination is likely to have a very limited value to the work of this Inquiry but nonetheless, in light of your submissions and in light of the lack of opposition from Mr Beetham, I'm going to permit you to ask those questions, but I'm going to ask you to be as focused as you can.

15

MS WAUGH: I will ask it just as I asked you just now.

COMMISSIONER: Thank you.

20

MS WAUGH: Thank you, Commissioner.

COMMISSIONER: Madam Associate, would you please have Ms Barrenger brought back into the hearing room. Ms Barrenger, please resume your seat in the witness box

25

**MS Erica Margaret BARRENGER, recalled on former affirmation:**

COMMISSIONER: In your absence, Ms Barrenger, I heard an application by Ms Waugh, who acts for Ms Barton, and I have given her leave to ask you some questions on a limited topic?---Okay.

30

Ms Waugh.

35

MS WAUGH: Thank you.

EXAMINATION BY MS WAUGH

Ms Barrenger, you've given us evidence yesterday in respect of Councillors, a block of five Councillors voting in blocs. You also further gave evidence that you didn't attend all of the Council meetings as you were away for much of January and February and that Mr Mianich had reported some concerning behaviour to you about Councillors. Can I just ask you please to expand upon the basis of your view that Councillors were voting in blocs?---I suppose the same Councillors used to vote together on the topics that went up from that faction.

40

45

All topics?---From my recollection, yes.

Are you aware of the clothing topic that was put up?---Yes. Now that you've reminded me of the clothing, I don't know who voted which way though.

5

Thank you, that is all.

COMMISSIONER: Thank you, Ms Waugh. Mr Beetham, are there any other housekeeping matters which need to be attended to now with this witness present?

10

MR BEETHAM: No, sir.

COMMISSIONER: Thank you. In that case, Ms Barrenger, I want to thank you for your assistance to this Inquiry and you are excused from further attendance today.

15

**WITNESS WITHDREW.**

COMMISSIONER: Mr Beetham, I will now adjourn the Inquiry for 15 minutes and then we will resume with the next witness.

20

MR BEETHAM: Thank you, sir.

(Short adjournment)

25

30

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HEARING RECOMMENCED AT 11.29 AM.

5 COMMISSIONER: Mr Beetham, I will adopt the similar procedure as with the last witness. So I will have you call the next witness and I will have him sworn in or affirmed and then I will hear applications.

MR BEETHAM: Certainly, sir. I call suspended Councillor Steven Hasluck.

10 COMMISSIONER: Thank you. Mr Hasluck, please come forward and take a seat in the witness box. Mr Hasluck, do you wish to take an oath or make an affirmation?

MR HASLUCK: Affirmation, please.

15 COMMISSIONER: Thank you. Madam Associate

**MR Steven Jeffrey HASLUCK, affirmed:**

20 COMMISSIONER: Thank you. Take a seat, Mr Hasluck?---Thank you. Ms Young.

25 MS YOUNG: Commissioner, with Ms Clarke, I seek leave to represent Councillor Hasluck in these proceedings pursuant to an application dated 23 August 2019.

COMMISSIONER: I can't imagine there would be any objection to that, Mr Beetham?

30 MR BEETHAM: No, sir, there's no objection to that and I can indicate there's unlikely to be objections to any of the other future applications.

COMMISSIONER: Unlikely?

35 MR BEETHAM: There won't be any objections, sir.

COMMISSIONER: Thank you.

40 MR BEETHAM: Unless something takes me by surprise.

COMMISSIONER: Thank you. In that case, Ms Saraceni?

45 MS SARACENI: Sir, I seek leave to represent Mr Mileham's interests when this witness is giving evidence.

COMMISSIONER: Thank you. Like Ms Young, I grant you leave to appear during the evidence of this witness. Mr Fotheringham?

MR FOTHERINGHAM: I seek leave on behalf of Mr Mianich, to represent him in this - - -

5 COMMISSIONER: Mr Mianich.

MR FOTHERINGHAM: Thank you.

10 COMMISSIONER: Yes, I grant you leave to appear during the evidence of this witness for Mr Mianich. Mr Harris?

MR HARRIS: I seek leave to appear on behalf of Ms Barrenger. We haven't filed our application yet, but undertake to do so during the lunch break.

15 COMMISSIONER: That undertaking will be sufficient for my purposes. I grant you leave to appear during the evidence of this witness.

MR HARRIS: Thank you, sir.

20 COMMISSIONER: Ms Waugh.

MS WAUGH: Yes, I seek leave to appear on behalf of Councillor Barton.

25 COMMISSIONER: Thank you. I grant you leave to appear on behalf of Councillor Barton for the evidence of this witness. Mr Cornish?

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

30 COMMISSIONER: Thank you. I grant you leave on the same terms. Mr Russell?

MR RUSSELL: Thank you, Commissioner. I seek leave to appear on behalf of Mr Crosetta.

35 COMMISSIONER: Thank you, Mr Russell. I grant you leave on the same terms.

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

40 COMMISSIONER: Thank you, Mr Skinner. I grant you leave on the same terms.

MR SKINNER: Thank you, sir.

45 COMMISSIONER: Ms Siavelis?

MS SIAVELIS: Thank you, Commissioner. I seek leave to appear on behalf of

Ms Battista.

COMMISSIONER: Thank you. I grant you leave on the same terms. Mr Wyatt?

5 MR WYATT: Thank you, Commissioner. I seek leave to appear on behalf of Rebecca Moore.

COMMISSIONER: Thank you, Mr Wyatt. I grant you leave on the same terms. Mr Hatt?

10

MR van HATTEM: Thank you, Commissioner. I seek leave to appear on behalf of Mr Harley.

COMMISSIONER: Thank you. I grant you leave on the same terms.

15

Mr van der Zanden.

MR van der ZANDEN: Commissioner, I seek leave on behalf of Ms Scaffidi.

COMMISSIONER: I grant you leave on the same terms as well.

20

MR van der ZANDEN: Thank you.

COMMISSIONER: Mr Beetham, are you ready to proceed?

25

MR BEETHAM: I am, sir.

EXAMINATION-IN-CHIEF BY MR BEETHAM

30 Mr Hasluck, my name is Mr Beetham and I will be asking you some questions today. Can you start by stating for the transcript your name, occupation and address?---My name is Steven Jeffrey Hasluck. I'm a commercial industrial property manager and I reside at [REDACTED].

35 And it's correct, is it, you are currently, albeit in a suspended capacity, a Councillor of the City of Perth?---That is correct.

When were you elected to that role?---October of 2017.

40 When are you up for re-election?---It would be October of 2021.

While you have been Councillor of the City of Perth, have you observed any factionalism amongst Councillors?---Yes, I have.

45 Have you ever been a member of one of those factions in the Council in the City of Perth?---No, I am a free-thinking individual who would make decisions - any sort of decisions based on my own opinion, not on that of others.

Is it fair to say that your opinion tended to align more often with some Councillors than others?---From time to time.

5 Would some of those Councillors with whom it would more often align be Councillors Green and Harley, for example?---From time to time, yes.

What about Councillor Barton and Councillor Limnios?---From time to time, yes.

10 The questions I want to ask you about today are in relation to a motion - primarily about a motion that you advanced on 24 February of last year?---Okay.

Do you know the motion I'm talking about?---No.

15 Is a motion to amend Council Policy 12.6?---Yes.

And to appoint an Acting CEO?---Correct.

Do you know the motion I mean now?---Yes, I do.

20 Do you recall that that motion was co-signed by some of your other Councillors?---Yes, that's right.

Can you recall who they were?---Barton, Limnios, Harley, Green and myself.

25 So is it fair to say in respect of the issues dealt with in that motion, you and those other four Councillors had an aligned view?---For that particular item, yes, that's correct.

30 For those two particular items, I think?---That's correct.

Is that right?---Yes.

35 Madam Associate, could you bring up the document at 11.0413, please, TRIM reference, sir, 14282.

COMMISSIONER: Thank you.

MR BEETHAM: Is that large enough on your screen?---That's fine.

40 Could you blow it up, thank you very much, Madam Associate. Mr Hasluck, you will see that an email from you to Mr Mianich?---That's correct.

And it's dated Saturday, 24 February 2018?---Correct.

45 And it's timed at 4 minutes to 5 pm?---Yes.

Do you recall sending that email?---I do.

You write there:

5                   *Dear Director Mianich, please see attached signed request to schedule  
a Special Council Meeting for Tuesday, 27 February at 5 pm.*

?---Correct.

10           You say February 2017 but I'm assuming that's a typo and should be 2018?---Yes,  
it was.

15           Is there a particular reason that date was chosen for the Special Council  
Meeting?---It was my understanding that was the earliest possible time in which  
we would be able to conduct the Special Council Meeting.

What was that understanding based on?---The Local Government Act.

20           Did that say, to your knowledge, that there was a period between which you could  
request and the period at which it would be held?---I don't recall right at this  
moment.

But just at the time of doing this, you thought that the 27th was the closest?---Yes.

25           Did you have a view as to what that period had to be?---No, not now. I don't  
recall.

Madam Associate, if you - actually, I'll remain on that page just shortly. You will  
see that's not copied to anybody?---Yes, I noticed that.

30           Is there a reason for that?---No. I couldn't tell you why. It was just sent to  
Mianich.

35           Would it be your ordinary practice to copy this to other Councillors when you  
were proposing a motion?---It would have been. This is why I'm not entirely  
certain as to why I didn't in this instance.

Nothing springs to mind?---No, it doesn't.

40           Do you recall whether you blind copied anybody into this email?---I would not  
have done that, no.

That's not something - - -?---I don't recall doing it and I don't think I did.

45           It's not your usual practice to do that?---No.

Madam Associate, if we could go over two pages to 415, TRIM 14283, sir.

COMMISSIONER: Thank you.

MR BEETHAM: I will ask you to expand that page as well, Madam Associate, if you could zoom in on that. This is the attachment to your email, Mr Hasluck. Do  
5 you recognise it as such?---Yes, I do.

And you will see there it's a request of the CEO, at that time Mr Mianich, the Acting CEO?---Yes.

10 To schedule that Special Council Meeting that's referred to in your email?---Mm hmm, correct.

Am I right in understanding that it deals with two items. The first is to amend Council Policy 12.6?---Yes.

15 And the second is to appoint an unknown to the role of Acting Chief Executive Officer?---That's correct.

And you will see at the very top of the screen there's a date of 24 February, yes?---27 February?

20 A bit higher than that?---At the very top, I beg your pardon, yes, I see that.

24 February, which is the Saturday that you sent this to Mr Mianich?---Yes, that's right.

Madam Associate, could you just scroll to the bottom of the page, please. Is that your signature there under your name?---It is.

30 Do you recognise the signatures of your other Councillors?---I do.

Were those signatures, or any of them, put on this document in your presence?---No.

35 How was the document signed?---I believe that it was circulated between myself, Councillor Barton, Councillor Harley, and I believe it was electronically signed by Councillors Linnios and Green.

40 So when you say circulated amongst yourself, Ms Barton and Mr Harley, do you mean in physical, hard form?---Yes, I do.

Did you hand it to Ms Barton, for example, and Mr Harley?---I actually don't recall how it was circulated.

45 How do you know then it was?---I recall signing this document but I can't be any clearer to you in terms of, "Here are you, this is for you, Lexi Barton."

You weren't in a room - - -?---I just don't remember, I'm sorry.

But you don't recall being in a room with Ms Barton at the time?---No, I don't.

5 Or any of the other people?---I don't recall that.

Is it possible that you were?---It's possible but I don't recall - excuse me, I've got a cold.

10 No trouble. Take the water and take a break whenever you need to?---Thank you. I don't recall. I just don't remember so I would rather say to you I don't remember.

If, for example, Councillor Barton or Councillor Harley tells us that you were all in a room together, would you have any reason to quibble with that?---No, I wouldn't.  
15 It's possible, but I don't remember.

This is a motion that you've sent to Mr Mianich, yes?---Yes, that's correct.

20 Did you write the motion?---I did not.

Who wrote the motion?---The motion, I understand, was written by Councillor Green and Harley.

25 When you say you understand it was written by them, what do you mean by that?---Yes. So on the Saturday - sorry, I don't have the day, I can't scroll.

The 24th?---The 24th. On the 24th I had received a call from Councillor Harley inviting me, or advising me that he was at Councillor Green's home in [REDACTED] and that I should come to their - to Jemma's home as they were working on a document together, that was in relation to obviously what ended up being produced, what we see here.  
30

35 At what time of day did you receive that call?---It was morning, the Saturday morning.

Were you at home?---Yes, I was.

Do you live near Councillor Green?---I lived in [REDACTED].

40 At the time?---Yes.

And Councillor Green was in [REDACTED]?---[REDACTED].

45 Did Councillor Harley in this telephone call tell you what the document was that they were working on?---Yes.

What did Councillor Harley say?---He said that he was - they were working on

changes to the policy in relation to the CEO's or the Acting CEO and how an Acting CEO would be able to be appointed.

5 This call, was it just with Councillor Harley or was it a call in which you could also speak to and hear Councillor Green?---I don't believe it was on speaker phone, but I believe Councillor Harley was definitely, at that moment when he was on the phone to me, speaking with Councillor Green as well, or in the same vicinity.

10 They were present in front of each other, were they?---Absolutely.

Or near to each other?---I believe so.

15 You say it was early in the morning on a Saturday?---Yes, relatively early in the morning.

Is that the first time that you'd had a discussion with anybody about this policy or appointing an Acting CEO?---There had been mention of it.

20 By who?---By Harley - Councillor Harley.

25 When?---I'm not going to say Councillor Green at that moment because I don't recall if there was discussion with her or not, but definitely I had spoken with Councillor Harley, that he suggested that would be something that would be appropriate.

When did he suggest that?---It would be perhaps the day before, on the Friday or the Thursday.

30 So it was quite recently?---Yes, it was fairly recent, yes.

Sorry, I interrupted you there but did you say the Thursday or the Friday?---I'm suggesting it was probably the Thursday or the Friday.

35 Quite proximate to the Saturday?---Correct.

So this is not a discussion that you had had a month previously?---No.

40 Or a discussion you had ever had before with any Councillors before having it with Councillor Harley on that occasion?---No.

Do you remember where that conversation took place, the one with Councillor Harley when he first raised this with you?---It would have been at Council House.

45 In a Council meeting or separately?---No, separately.

Did Councillor Harley say why this would need to be done?---No. No, he didn't.

Can you put us in the picture, paint us a picture of what that conversation was like? What did Councillor Harley - where did it happen, what did he say?---He was either in my office or I was in his. Our offices were directly - backed on to each other's. So we would have been on the Councillors' floor and it would have been a  
5 general discussion that perhaps that's something that he expressed interest in doing.

Did he say why he was interested in doing it?---No, I don't recall.

10 Did you ask him?---No.

Did you express a view as to whether or not you would be interested in doing it?---Good question. I actually don't recall at that time if I had expressed interest in doing so. I wasn't opposed - I wasn't for or against at that time.

15

It was just at that stage for you, was it, just an idea that had been raised with you?---Exactly.

Was Councillor Harley asking you to do anything when he was telling you about this motion, or was he just mentioning it in passing or was there a purpose that you understood this conversation to be about?---I didn't ask me to - at that moment, if you mean contribute towards the document or anything of that nature, no

20

[11.45 am]

25

He didn't say - does he call you Steve or Steven or something?---Steve.

He didn't say, "Steve, I think we should start working a document up like this"?---That was sort of the - not "we", but sort of, that was the gist of what he was indicating would be appropriate.

30

So you understood then that what eventually turned into this motion on the screen?---Yes.

35

Started with an idea from Councillor Harley?---I wouldn't say exclusively Councillor Harley. All I'm saying to you is that Councillor Harley had raised it with me.

All right, so - - -?---Whether or not he was - I beg your pardon.

40

So you can't speak to whether or not Councillor Harley was talking about it or having this idea with somebody else?---No.

But the first person to mention it to you was Councillor Harley?---Correct.

45

In Council House?---Yes.

On perhaps the Thursday or the Friday of that week leading to the Saturday?---I believe so.

And then you get this telephone call on the Saturday morning?---Yes.

5

Had you had any conversation with Councillor Harley or Green or any of the other people on this motion, between when you had that chat with Councillor Harley?---Yes.

10 And when he called you in the morning about this idea?---No, I don't recall doing that, no.

So when Councillor Harley called you on that Saturday morning, what did you do?---He had invited me to come to Councillor Green's home, which I did.

15

And he mentioned, I think, that it was about this topic, the topic you had discussed previously?---That's correct, yes.

20 Did he say how far advanced the document was at that stage?---No. "We are working on it together, you should come down and add your input", was essentially the conversation, and I didn't have anything planned on that day so I say, "Yeah, I'll be there in - give me", I don't know, it was 20 minutes or so I was there.

25 So you went there that morning?---Correct, I did.

And was anyone else there other than yourself and - when I mean anybody else, I mean any other Councillors or members of the City other than Councillor Harley and Councillor Green?---No-one else.

30

So Councillors Limnios and Barton weren't there?---No.

And I'm going to safely assume that neither was the Lord Mayor or Councillor Adamos?---That's correct.

35

During that morning, did you, Councillor Harley and Councillor Green then work on this document?---I beg your pardon?

40 During that morning, did you, Councillor Harley and Councillor Green work on the document that's on the screen?---Councillor Harley and Green had essentially all the essential terms of this document already on the screen when I arrived. It was all but complete at that moment.

45 So do I understand that evidence to mean it was almost, if not entirely in this type of form?---It was not at all dissimilar to this document.

Did it have items 1 and 2, do you recall, 1 being, "Amendment of the policy", 2,

"Appointing a" - - -?---Yes, I do recall that, yes.

5 Was it left blank where it says, "Council appoints"? Was the draft you saw blank or did it have somebody's name on it?---No, I don't ever remember a name going in there.

So it was blank at that stage?---Yes.

10 When Councillor Harley asked you to come over to Councillor Green's house, did he say he wanted you to help draft the document or look at the document? What did he want you to do?---He wanted my input.

15 What input did you have?---I actually didn't have any input into it. Remember, I was a brand new Councillor, I was very new. I'd only been at the City - - -

That October date?---Yes. So I had only served the City for four months before all this happened.

20 So he asked you for your input?---He did.

25 You came over to Councillor Green's house?---I did, and I didn't have a lot of input to give. I read it. I agreed that this was a sensible idea at the time, or I believed - yes, I thought it was a sensible idea at the time and so I didn't have a lot to add to it, if anything. I actually don't recall adding anything to it.

That's what I'm interested to know?---I didn't. I don't - - -

30 I will just interrupt you there. You've given evidence that's sort of shifted a little bit there from, you had little to do with it, not sure if you had much to do it with it, you had no input. What I'm curious about, do you have a recollection?---Yes.

Did you have input into the document?---No.

35 No?---And I should be very clear - - -

I just wanted to understand that?---Yes, please. Forgive me if I wasn't clear. I was asked to come to the home. If I wished, if I had input to give, I would give it. The document was almost exactly as you see here by that time that I'd arrived to Green's home and I read it and I was - I didn't add any input to it, no.

40 Was the document, was it on a computer screen?---Yes.

Were there any hard copy documents?---No.

45 Sorry, I will rephrase that: were there any hard copy versions of this document there?---No, not that I remember.

Not that you recall? Do you have a recollection of any other documents, for example, the original Council Policy 12.6?---Good question. No, I - I'm going to say no.

5 You don't remember?---I don't remember.

Is that what you mean when you're saying no in that way, you don't remember?---I apologise, I will be clearer in the future. I don't remember if it was there or not.

10 Whether that be in hard copy or electronic form?---Yes.

Had you seen Council Policy 12.6 prior to this amended form of it in your time as a Councillor?---No.

15 Had you read section 5.36(2)(b) of the Local Government Act prior to this time?---I read the entire Local Government Act before I even ran for Council.

So you'd read that provision then?---Yes. Whether or not I understood everything in the Local Government Act is very different but I - - -

20 You had read the entire Act?---Yes, I had.

Was there a discussion when you were at the home of Councillor Green, looking at this document - please?---Thank you. Sorry.

25 You don't have to apologise. So was there any discussion when you were looking at this document about who would be blank, who would fill that spot in item 2?---Yes.

30 Tell me about that?---There was mention that Annaliese would be very well - would fit well for the role and that was an idea that I subscribed to as well.

Who mentioned that? Who was the first person to raise Ms Battista, do you remember?---I don't know, I don't remember.

35 Was it a generally held view amongst the three of you that Annaliese Battista would be a good fit for the role?---Certainly speaking for myself it was, yes, and I understand it would have been with the others, yes.

40 I think your evidence was that it was mentioned and I presume it was not mentioned by you in the first instance? Ms Battista wasn't mentioned by you first?---I don't recall mentioning her first, no.

45 But you had the impression, did you, that yourself and Councillor Harley and Councillor Green shared the view that Ms Battista would be an appropriate Acting CEO?---Yes, that's correct.

Did you consider any of the other members of the Executive in that conversation?---Did I - sorry, please just ask me again.

Did you, yourself personally?---Yes.

5

Or the three of you as a group?---Yes.

Consider any other potential nominees?---Personally, I did. I thought Paul Crosetta may have been a person worth considering but my first preference would have been Annaliese Battista.

10

Do you recall mentioning Paul Crosetta's name to the other two?---I don't recall.

Why was Mr Crosetta appropriate in your view?---I think Mr Crosetta was a seasoned professional. I thought he ran a fairly tight ship in his Department and for want of a better term, I quite liked his style and I thought that he would have been quite appropriate, but again, second to Annaliese.

15

You thought Annaliese was preferable to Mr Crosetta?---I did.

20

But if Annaliese wasn't available or appropriate for some other reason, Mr Crosetta would have been acceptable to you too?---That's correct.

I take it you discussed Mr Mianich, given he was in the role at the time?---Yes.

25

What was your view about Mr Mianich?---Mr Mianich, in my view, was fairly obstructive.

Fairly obstructive of, or of whom?---Of the Elected Members and I think Mr Mianich was one of two things: I think Mr Mianich was or would have been or would have acted in a way that was not entirely appropriate in terms of - I think what Mr Mianich was really hoping to achieve was that Elected Members did not achieve any outcomes. That was my view.

30

What did you form that view on?---I think that when we were in various meetings, Mr Mianich's demeanour was very - Mr Mianich was making it fairly clear in terms of his body language and his verbal terminology that it was going to be - if we wanted to achieve something, he made it feel as though it was going to be extremely difficult for us to do so. That was my view.

35

Can you give me an example of something you wanted to achieve where you got this sense from him that he was going to make it hard?---I'm not in a position to give you a direct example.

40

You can't think of one?---No, I can't. I can't think of one.

45

This is just a sense that you got from Mr Mianich?---Absolutely, yes. He was

making it fairly clear, in my view.

5 Did he do anything? Did he actually take a step that you can remember where you wanted to do something and he went, "No, we are not doing that" or something like that?---I don't think he had much of a chance because everything seemed to happen fairly quickly in terms of the timeline.

So he didn't, is the answer, is that right?---No, I can say no.

10 Was anybody else considered or discussed, any other members of the Executive? I will remind you, that's Rebecca Moore and Ms Barrenger?---No.

Did you have Mr Crosetta in your mind?---In my mind only.

15 Ms Battista and there was a discussion of Mr Mianich?---That's correct.

Did Councillors Harley and Green express any views about Mr Mianich?---I don't - did they express to me any views?

20 Yes. I think your evidence was he was discussed that morning?---Yes.

Do I take it they said something about Mr Mianich?---I think they were of a similar view to me that Mr Mianich was not the appropriate person to - - -

25 That's the conclusion you drew but I'm interested to know what they said to you for you to reach that conclusion?---I'm sorry, I don't recall an exact - and I'd rather say - if I know, I will say it to you but I don't remember specific words that anyone will have used for me to tell you now.

30 But nonetheless you reached the view that they shared a similar view of Mr Mianich to you?---I believe so.

But you can't remember anything that they said to make you reach that conclusion?---No.

35 Did either Councillor Harley or Councillor Green during this period, the morning on the Saturday, did either of them mention to you that Mr Mianich had recently lodged complaints against them with the Local Government Standards Panel?---No, they had not.

40 They didn't tell you that?---No, they did not.

You seem a bit affronted by that?---I was blind-sided by this, by my counsel yesterday.

45 Yesterday?---Yes, yesterday.

So yesterday is the first time that you'd heard that the Local Government Standards Panel complaints had been made about Councillors Harley and Green?---From Mianich? I was not aware of that, no.

5 You weren't aware of that? I may be seem to be labouring the point, Mr Hasluck, but I want to be very clear?---Please.

You weren't aware of that during this conversation on the 27th with Councillors Harley and Green?---No, I was not.

10

Or later that day?---No, I was not.

Or Sunday?---No, I was not.

15 Monday?---Not until yesterday, sir.

Not until yesterday. Had you been aware of that, and I know I'm asking you to speculate, would you have supported this motion?---No, I would not.

20 And why not?---Because I feel that it would have been better to have let - if I knew this information, I would not have supported it in any way, shape or form for the very reason that the waters were rough enough, the media were all over us and I would have thought that given that situation, that it would have been much more appropriate to simply leave things settle and calm the waters as best we can, even  
25 if it means just having Mianich there.

One view that might be taken of the putting up of this motion by people, including Councillors Harley and Green at the time that they did?---Yes.

30 Is that it was in response to the complaints made by Mr Mianich. Is that something you considered since hearing about this yesterday?---Yes, it was.

And have you had an opportunity to speak with either Councillor Harley or Green about that in the period between yesterday and now?---I will not speak to anyone.

35 I'm under a summons not to, so no is the answer.

No is the answer to that. Madam Associate, can you just bring up the document at 11.0551, please. I will come back to that Saturday morning in a moment, Mr Hasluck?---Sure

40

[12 noon]

I just want to ask you if you've ever seen this document before. This is TRIM 14324, sir.

45

COMMISSIONER: Thank you.

MR BEETHAM: Madam Associate, could you just scroll to the bottom and enlarge the last paragraph, please. I can tell you, Mr Hasluck, that this document is headed, "Administration advice re motion to change Policy 12.6", and my understanding is it's advice given by the Executive to the Council in preparation of the Council meeting?---Okay.

5  
Could I just ask you to read that last paragraph to yourself, please?---Okay. Let me just re-read the last sentence, please.

10 Yes, take as long as you need. I don't want to rush you through it?---Okay, yes.

You will see there that passage talks about the lodgement of complaints against the Lord Mayor and Elected Members?---Yes, it does.

15 And on 23 February?---Yes.

The notice in relation to the motion was received on 24 February?---Yes.

20 And the view is expressed that "The proximity between the two may be considered to be victimization by some observers"?---Yes.

Do you recall ever seeing that passage before?---I don't recall seeing this document at all.

25 You don't recall ever receiving this - - -?---Can you just - definitely not, no, is the answer. I don't know what this entire document is, I'm sorry. Is it - - -

This is the one of the things I'm hoping you can help me with, Mr Hasluck?---Okay.

30

So it's titled, "Administration advice re motion to change Policy 12.6"?---Okay.

If you could scroll up to the top, Madam Associate, can I show Mr Hasluck that?---Mm hmm.

35

My understanding of this document is that it is advice given by the Administration to Councillors?---Okay.

On the 27th?---Yes.

40

You don't remember ever seeing that?---No, I do not.

45 Had you seen that, do you think you would have gone ahead with the motion?---As I've said to you earlier, I would not have supported that motion and I would not have sent it, I would not have had any involvement with it.

Coming back to that Saturday morning when you were Councillor Green's

house?---Sure.

5 Were you aware at that stage that any complaints had been made about Councillors by Mr Mianich to the Local Government Standards Panel?---The direct answer to your question is no, from Mianich. I was aware that there were - I was of the understanding there were various complaints to standards committees and panels but I was not aware of Mianich directly reporting anyone.

10 Were you aware of any of the detail of those other complaints?---No. To be - - -

Or - sorry, go on?---I was going to say, I stayed out as much of that as possible. It didn't involve me and I was there to do the right thing by the ratepayers of the City of Perth, not involve myself with people complaining about each other.

15 The Saturday morning when you were at Councillor Green's house and you're talking about this motion which is not on the screen any more but I can bring it back if need be?---Yes.

20 Did Councillor Harley or Councillor Green or yourself talk about why that motion needed to be brought up on a Saturday?---No. Being a Councillor is a seven day a week job, so - - -

I appreciate that?---So it's not surprising to have a conversation - - -

25 It wasn't unusual to have that?---No, not at all.

Was it unusual to email the Acting CEO or the CEO on a Saturday afternoon to request an urgent meeting a few days later?---No, I don't think so.

30 It's not usual?---I beg your pardon.

Had you done it before?---There might be emails that I've sent on a weekend, yes.

35 But requesting an urgent Special Council Meeting?---Gosh, no. No.

So did anybody amongst the three of you talk about why, one, you're dealing with it on a Saturday or two, why it needed to be dealt with so soon?---Well, it was clear to me, and I believe to Councillor Green and Harley and the others that signed this, Barton and Linnios, that time was fairly important.

40 Why?---The City was under siege by the media at that point and it was, to me, very, very important that we calmed the waters as much as we possibly could. It was my understanding there was leak after leak after leak and I felt it really, really important to get someone in the role that would be the face of the City, to show the calmness, to show the stability still existed at the City. So I think, if you take that view and that view was accepted by the others as well, it was important that we acted as soon as possible. News was daily and so - - -

45

I understand all of that, Mr Hasluck. You had Mr Mianich in the seat at the time?---Yes.

5 Did you have a view that he couldn't calm the waters?---Mianich wasn't there. Mianich was on leave.

Not on the Saturday?---Not on the Saturday, that's fair.

10 That's when I'm talking about, the Saturday morning?---That's fair, okay.

Saturday morning and you're having this discussion?---Yes.

You have an Acting CEO?---Yes.

15

Did you have a view about his ability to calm the waters or keep them calm?---As I said to you earlier, I don't think he was the appropriate person.

No, but my question is a bit more precise than that?---Sorry.

20

It's whether or not you had a view whether he could calm the waters, to use your phrase?---No, he didn't.

You didn't think he could?---No.

25

Even for a short period of time as Acting CEO?---No.

Am I right in understanding your view to have been on that morning that regardless of the brevity or the shortness of the period of time within which Mr Mianich would be Acting CEO pending Mr Mileham's return?---Yes.

30

Any period was too long a period for Mr Mianich to be in that role?---Preferably for him to be taken out of the role and have someone that I believe would be a better person for the role.

35

And that person in your view was - - -?---In my view was either - - -

Ms Battista?---Battista or Crosetta.

40 Were you aware that Mr Crosetta had no Local Government experience other than his experience at the City of Perth?---No.

If you were aware of that - - -?---I beg your pardon, yes, I was. I knew that he worked in Abu Dhabi or somewhere in the Middle East.

45

In a commercial space?---Yes, that's correct.

So you were aware then that he had no Local Government experience, is that what you're saying?---I'm going to say yes.

5 But notwithstanding - - -?---Sorry, I should be clear. I hadn't read the man's résumé.

I appreciate that, but I'm trying to understand the basis on which you formed the view?---Yes.

10 That Mr Crosetta was appropriate and you've given some reasons?---Yes.

I'm wondering whether you knew that he had no Local Government experience?---I did not know.

15 Had you known he had no Local Government experience, would that have changed your opinion about whether he was an appropriate person for CEO?---I think that he would still have been an appropriate person.

20 Notwithstanding that - - -?---As a CEO.

Did you have a view at this stage, on the morning of the 24th, about the appropriateness of Rebecca Moore as CEO?---Did I have a view?

25 Yes?---I didn't consider her as appropriate. There was only two people that I thought were appropriate for the position.

I just want to unpack that a little bit?---Sure.

30 You mean to say you had no view about Ms Moore or that you had a view that she would be inappropriate?---I had no view.

And hers was not a name that came up in that conversation with Councillor Green and Councillor Harley on that morning?---No.

35 Madam Associate, if you could just bring the motion back up, which is 415, please. You don't need to look at it for the moment, Mr Hasluck, but you will recall it's signed by Councillors - in addition to you and Councillor Harley and Councillor Green, it's signed by Councillor Barton and Councillor Limnios. So I'm interested to know how it got to them and when and if they were involved in a  
40 conversation about the motion?---Mm hmm.

Did you speak to either of them about the motion?---Green?

45 No, sorry, Councillor Barton or Councillor Limnios?---Barton, I beg your pardon. Barton, I recall, yes.

You spoke with her?---I believe so.

Some time on that Saturday?---I think I did, yes.

Can you remember how?---I think it was via phone.

5

Like a telephone call?---Telephone, mobile phone to mobile phone.

Or text message?---I don't recall text message, no. I don't remember sending text messages. I think I spoke to Lexi.

10

When you were at Councillor Green's house reviewing this motion, once you'd reached a position where you were happy with the content of the motion?---Yes.

Did you sign it then?---No. It was signed at Council House.

15

Signed at Council House?---Yes.

And what did you do once the conversation at Councillor Green's house had wrapped up?---I went home.

20

Did you speak to Councillor Barton, do you remember, before going home?---I may have, but I don't recall.

You were confident - - -?---I don't remember when I spoke to Barton but it was definitely during the Saturday.

25

What did you say to Councillor Barton, do you remember?---I couldn't tell you verbatim what I said to her, no.

30

Can you remember anything or can you remember the topic?---The topic was this - was the motion for the Special Council Meeting to take place.

Do you recall expressing any view to her about the motion?---I'm only going to say what I absolutely know.

35

That's all I'm asking?---So I'm just going to say to you, I'm sorry, I don't remember.

Do you have any recollection of anything Councillor Barton said back to you?---I don't remember, I'm sorry. Look, I remember maybe she was supportive of the idea. I don't know, with my timeline in my conversation with her, whether or not she was aware of this document and had read it and digested it or not. I don't remember the timeline, I'm afraid.

40

Do you remember whether you discussed your views about Mr Mianich with Councillor Barton either in that call or later that day?---I can't say definitively.

45

Do you recall Councillor Barton on this day or previously, expressing a view about

Mr Mianich to you?---I'm sorry, I just don't - - -

You don't recall? Did you have any conversations with Councillor Limnios?---I think - on the Saturday?

5

Yes?---I think Councillor Limnios was away overseas. They had been in Greece. I don't recall where he was. Either he was aware on holiday or he was not available. There was something about him that was not - he wasn't available, I just don't remember what it was.

10

When you say not available, you mean not available to meet in person?---Yes.

Is that what you mean?---Yes, I do.

15

Is it correct then that you don't remember having any conversation with him on the Saturday?---No, I don't think I did. I don't think I spoke to him, no.

You said the motion was signed at Council House?---I signed it, yes, at Council House.

20

Can you remember whose signatures were on the document when you signed it?---I don't, no.

25

Do you remember how you got the document to sign?---Yes. I may have been the first to sign it because I think I printed it.

I see?---I think I may have been the first person to sign it, because I'm pretty sure I hit print on it.

30

In your office at Council House?---In my office.

How did you get it to print it?---It was possibly emailed to me.

35

You don't remember, you're just assuming that's probably what happened?---I'm assuming it was emailed to me because it wasn't - it had to have been electronically sent to me somehow, because I was not the author of this document.

Given you were not the author of the document and it was, as I understand it, not your idea to generate this document?---Mm hmm.

40

Why is it that you were the Councillor that moved this motion?---I didn't see a problem with putting my name forward for it.

45

Were you asked to move it?---I don't - I may have been but I don't recall being asked to move it. No, I'm going to say no.

I want to understand what you mean what you mean by "no", no, you don't

remember or no, you were not asked?---Sorry, yes, I should be clearer.

That's okay?---I don't believe I was asked. I may have volunteered.

5 You may have put your hand up to move the motion?---I may have, yes. In fact, I think I probably did.

Is it your usual practice to put your hand up to move a motion that wasn't your idea and which you were not the primary author of?---If it is a motion that I agree with,  
10 I don't have a problem - I wouldn't have a problem with moving it

[12.15 pm]

I understand you wouldn't have a problem moving it, but my question is, is it your  
15 practice to volunteer to move it?---Well, I didn't have that many opportunities. I was only there for four months, so I - not usually but given my involvement with this, I was comfortable with it so I was happy to move the motion.

Is your evidence then in response to my question?---Yes.

20

You hadn't been a Councillor long so you hadn't had many opportunities - and I'm going to paraphrase - to develop a practice with respect to motions?---That's correct.

25 Is that what you mean?---No.

What did you do with the motion? I think you said you were the first person to sign it, what did you do with it?---This is the circulation that I'm referring to and I think it may have gone then to - I believe it went either to Barton or Harley after  
30 that.

Is that because, in your view, they signed it physically rather than electronically?---Yes. I seem to recall Harley being there when I printed it, so I would suggest the probability is that I've signed it, Harley's signed it, Barton's  
35 signed it and then I don't know the other two, in which - - -

Which order?---Which order it's happened, no.

Where is Councillor Barton's office relative to yours in the Council  
40 House?---Barton is adjoining me on the other side, so I'm sandwiched between Harley and Barton.

So it's not as if one of those is more proximate to you and likely to have been there?---No.

45

Simply as a result of that?---Correct.

Madam Associate, could you now bring up the document, please, at 11.0517, TRIM 14314, sir.

COMMISSIONER: Thank you.

5

MR BEETHAM: If we can start in reverse order, Mr Hasluck, and I can ask you to look at the email at the bottom?---Okay.

10 Can you read that okay? It doesn't say very much. Madam Associate, if you could just zoom in on that bottom portion. You will see there - do you see that?---Yes. I'm just wondering which section?

I'm about to show you?---Okay, thank you.

15 You will see at the bottom it starts, there's a sentence, if I can call it that that says, "On 27 February at 12.38 pm, Jemma Green" email address, "wrote"?---Okay. Yes, I do see that, yes.

20 Do you need that blown up a little bit?---No, it's okay, I can see it. That's fine, thank you.

You will see there at (a), a link to a SharePoint website?---Yes.

25 Which has attached what I understand is described as the Enacted Business Continuity Framework.PDF?---Yes.

30 Do you have a recollection of receiving that email? Just take your time. This is about midday, just after midday on the 27th, the day of the Special Council Meeting?---It's entirely possible that I've received it but I - - -

You don't remember?---I'm sorry, I just don't.

35 You don't have to apologise, Mr Hasluck. We just need to know whether you recall or not?---No.

40 Madam Associate, could you now - we will come back to that email in a moment. Madam Associate, could you please go to 495. Sir, that's TRIM reference 14307. This is, as we understand it, that document, that Enacted Business Continuity Framework.PDF document that I just showed you the link to, because you will see there the subject line of this memorandum, "Enacted Business Continuity Framework"?---I understand, okay.

45 And you will see it's a confidential memorandum from Ms Moore at the bottom?---Can I just ask you a question?

Yes, you can?---The email that you showed you earlier with the link, that wasn't a link to a policy?

No. I can go back to that if you want to see it again?---I didn't read the entire length of the link but I just assumed it was a policy of some - the Crisis Management Policy.

5

I understand that?---It was not is what you're saying?

Madam Associate, if we could just go back - - -?---Sorry.

10

Not at all. I don't want you to be misunderstanding the evidence. If we can just zoom in on that link at the bottom. You will see under the link there's some words in triangular brackets?---Yes, I do.

15

And you see that's the Enacted Business Continuity Framework.PDF?---M'mm.

You look closely at the link, you will see those words at the end of the link with the strange percentage 20 sign?---I understand, okay. Sorry, I might not be as technical as I thought I was. Would that have had an attachment to it for the - - -

20

This is what I'm hoping you can tell us, Mr Hasluck. You will see that looks like a link?---It does, yes.

And you will see that the link seems to say Enacted Business Continuity Framework?---It does, yes.

25

So Madam Associate, if we go back to 495, you will see there, Mr Hasluck the subject, "Enacted Business Continuity Framework", it has the same sentence in it?---Okay, yes, I see.

30

Can I ask you to read that to yourself?---The entire letter?

Please.

35

COMMISSIONER: Just enlarge the text, please, Madam Associate?---Thank you?---Yes.

MR BEETHAM: Have you read that?---Yes, I have.

40

Do you remember receiving that on 27 February?---I may remember that - I will say yes to that one. Yes, I think I did.

You will see in the third paragraph the words commencing, "The Administration recommends"?---Yes, I do.

45

And they recommend that:

*To minimise disruption to staff, City operations and to ratepayers that*

*further changes to Administration be placed on hold pending the outcome of the meeting tomorrow.*

5 That's the Council meeting tomorrow with the Minister?---Yes.

Do you recall receiving that advice at that time from the Executive during the course of that day?---No. Other than this email, I don't recall, no.

10 Other than this memorandum?---This communication.

That's the only type of that advice that you remember?---I believe so, yes.

15 I just want to be clear, your answer is, you're pretty sure you've seen and read this on the 27th?---I'm reasonably certain that I've seen this document, yes. I'm not 100 per cent certain, I'm afraid but it does ring a bell to me, yes.

Madam Associate, if we could now go back to 517, please, and you will see above Ms Green's email, an email from Mr Limnios?---I do.

20 And you will see he writes, "This is very desperate in my view"?---Where's that?

That's about three-quarters of the way down the page?---Yes, do I see that, sorry. Yes.

25 It's not a happily formatted page, Mr Hasluck?---No, it's not.

Mine's highlighted so it's easier for me. You see that there though?---I do, yes.

30 And you see he writes, "This is very desperate in my view"?---Yes.

Do you remember receiving that email?---No.

You don't remember that?---I don't remember that, no.

35 Then further up the page, there's an email from Mr Harley to Mr Limnios?---Mm hmm, yes.

At 1 o'clock on the 27th?---Yes.

40 Than you will see that's sent to what I assume is your gmail account?---Yes.

Can you confirm that's your gmail account?---There's two there.

45 That might be an artefact of the email process itself. Is that your email address?---Yes, it is, yes.

If you can just read that email to yourself. Can you let me know if you remember

that email?---It rings a bell, yes. I will say yes.

Can you see there, about halfway down that email, the email from Mr Harley, he writes, "Steve/Lexi"?---Yes.

5

A reference to you and Councillor Barton?---Correct.

"If Rebecca", and that's a reference to Ms Moore?---Yes.

10

"Is willing to take this extraordinary step", I understand that to be a reference to the enactment of the Crisis Management Plan, do you?---Yes, I would.

"Despite the clear will of Councillors, that gives you some indication of how she would function in the Acting CEO role"?---Yes.

15

Reading that, do you remember speaking about Ms Moore acting in the CEO role?---No, I don't.

You don't recall any conversations - - -?---No, I don't.

20

- - - with Mr Harley about that?---No.

Then you will see underneath he says, "We, the Council, run the City, not the other way round"?---Yes.

25

Did you share that view?---I didn't share that view at all and I didn't subscribe to any of this idea. In terms of opinion, this is Councillor Harley's and Councillor Limnios' opinion, not mine.

30

I will just and follow that through. You didn't subscribe to the opinion of Mr Limnios that, "This is very desperate in my view", assuming that the "this" is the enactment of the Crisis Management Plan?---Assuming that.

You didn't subscribe to that view?---No. I didn't subscribe to that view at that time.

35

And you didn't subscribe to the view that "the Council runs the city, not the other way round" expressed by Mr Harley?---It is probably more so factually correct, I guess, but I prefer to take more of a team view approach rather than, we're the boss approach.

40

A little further up, Councillor Harley describes the enactment of this framework, this plan, as "an extraordinary step" and above that, Ms Moore's request for a postponement of the Special Council Meeting as something that should not be allowed?---Mm hmm.

45

Was that your view as well on that day?---No, that was Rebecca's opinion, that's

Reece's opinion; they are not necessarily views that I shared, no.

5 So where Councillor Harley writes, "Rebecca is asking for a postponement, it should not be allowed", you didn't share that view that it should not be allowed?---A postponement should not be allowed? I didn't. I thought that it was entirely appropriate for us to continue on with the Special Council Meeting. So it was irrelevant to me whether or not it was allowed. I believe that the way that we had authorised the Special Council Meeting was all in accordance with the Act and we were fully allowed to proceed as per the meeting.

10 Did you have a view about the enactment of the Crisis Management Plan?---I beg your pardon in.

15 Did you have a view about the Executive's enactment of the Crisis Management Plan?---Yes, I did.

What was that?---I thought it was crazy.

20 Why do you say that?---After - I did not believe that there was an earthquake or power outage for a certain period of time or any cataclysmic event that would have warranted such action to have been, or to have taken place.

25 Is that your understanding of what that plan was for?---There was one small clause - I don't have it in front of me but there's one small clause that I think refers to something, and I will paraphrase obviously, to the ongoing continuity of the City and the function of the City.

30 Yes?---So I guess it might - I don't have a legal background unlike yourselves so there might be a way of suggesting that that's possible. It was my view that we should continue on with the Special Council Meeting.

35 Yes, and is it your view, as I understand your evidence, the City wasn't in a crisis such that the Crisis Management Plan should have been activated?---I did not believe it should have been activated, no

[12.30 pm]

40 Did you have any views at that time about why it was activated?---My view at that time was, is that the Administration were trying desperately to take control of the situation, the situation being keeping Mianich in the role. I think it was just a desperate act.

45 Did anybody ever convey that to you, any of the Executive, the Administration or City staff?---No.

That's just a view you formed based on what was happening?---You asked me my view, that was my view of it, yes.

Mr Parkinson brings my attention, Mr Hasluck, that in describing what the Administration are doing, you described it using, I think the adverb "desperately" they were desperately trying to do something?---Yes.

5

When I asked you whether or not you shared Mr Limnios' view that what they were doing was desperate, you said no. I'm just wondering if you can explain what - - -?---That's a good point and I don't - maybe you make a point there but I do think that - look, it probably was then. I think that it was a - I do think that it was a last minute rush to take control of the situation.

10

And that was a view you had then as well?---At that time, yes, I did.

Madam Associate, could I ask you now to move forward to the document at 11.0529, TRIM reference, sir, 14320.

15

COMMISSIONER: Thank you.

MR BEETHAM: Can I ask you just to enlarge that, please, Madam Associate. Thank you. You will see, Mr Hasluck, that this is an email from Ms Moore?---Okay.

20

About 3.30 on Tuesday, the 27th?---Yes.

25

And it's addressed, at least on the face of this email to the Lord Mayor, Ms Scaffidi and to the Elected Members?---Correct.

And you will see, if you read the email, it's a piece of correspondence that Ms Moore has been asked, on behalf of the ELG, to distribute to the Elected Members for the CEO, Mr Mileham?---Okay, yes.

30

Do you remember receiving that email?---I do.

And you will see there that Mr Mileham is telling you, through Rebecca Moore, that he will be back at work on Tuesday, 6 March?---Yes.

35

Which was a week later?---Yes.

And that he expresses the view that he sees "as CEO, no urgent reason or requirement for the change proposed in the motion"?---Yes.

40

You received that email on the day?---On the day?

The 27th?---I would assume so.

45

Given that Mr Mileham's indicated he will be back at work on the Tuesday of the next week, why did you think it was appropriate to continue with the motion to

5 appoint an Acting CEO just for a few days before Mr Mileham returned?---I think that the policy was not clear in terms of the situation that was at hand. I wasn't entirely certain whether or not the CEO would return and if he did, for how long he would return before perhaps going on stress leave again. That, combined with the fact that the meeting had already been scheduled, I did not see any reason - and that the policy was not all that clear in my view - it was still within our remit to proceed in accordance with the notice that we'd issued.

10 I understand it was within your remit to proceed in the way that you proposed to proceed?---Yes.

15 But did you give any thought to thinking, "Well, Mr Mileham's going to be back on the Tuesday, that means our Acting CEO is really only going to be Acting CEO for Wednesday, Thursday, Friday"?---Mm hmm.

Bearing in mind the Monday was a public holiday that year?---M'mm.

20 "Maybe we don't need to push through this change or appoint Ms Battista just for those three days and the Executive can look after the City in Mr Mileham's absence", did you give any thought to that?---I don't recall doing that, no.

25 Do you think that perhaps you ought to have given some thought to that before pressing ahead with this motion with such urgency?---I think that given the turbulent times that we were in, I was not completely convinced that the CEO (a), was actually going to return on that date, and that's not to say that I don't disbelieve the CEO, but I feared that he may, given the swiftness in which he left and the stress, that it may very well happen again and I think given the policy was not clear, it was important to proceed and get it further clarified so that it's done. The meeting was called, I think that it was still a very valid reason to proceed.

30 Did you at this stage have any view on Mr Mileham's suitability as the Chief Executive?---I beg your pardon?

35 At this stage on the 27th?---Yes.

Did you have a view about Mr Mileham and his capacity or ability as a Chief Executive of the city?---I had concerns for Mr Mileham, I guess personal concerns. I worried for his welfare.

40 Did you have any concerns about his ability to be - what did you think of him as a CEO?---I thought that Mr Mileham was an effective, reasonably effective CEO, one that was going through very different circumstances or various circumstances. There was a lot happening at the City, both in terms of going on and doing what we were doing for ratepayers, but also internally and different, I guess, politics, but I would like to say I think that I had no issue with Mr Mileham acting as the CEO of the City.

Did you have any designs to remove him from that role?---No.

Had anyone suggested to you that they wanted to remove him from that role, and by anyone, I mean the other Councillors?---Yes.

5

Who had suggested that to you?---I think that - well, I don't think, Councillor Harley and Councillor Green and also - they are the two that I know for sure so that's all I'm going to say.

10 And they said that to you?---Yes.

Did they say those types of things to you in or about February of 2018?---No, it was before then. Then - - -

15 Go on?---No, that's all. It was before then. There were various instances in which they had expressed that they weren't happy with the CEO.

Did you have any concern that the proposal that you were moving to amend the policy and appoint Ms Battista was a step in a plan to eventually oust

20 Mr Mileham?---Absolutely not.

And nobody suggested that to you?---No, they did not.

The day after the Special Council Meeting, the 28th?---Yes.

25

On that day or during the 27th, did any of the Councillors say to you, "Steve, I think we should move a motion to suspend Mr Mileham"?---No, I don't remember that at all.

30 You don't recall any discussion about suspending Mr Mileham?---No.

That's not something that Councillor Green raised with you?---No, I don't remember that.

35 Or Councillor Harley?---No, I don't remember that.

Or any of the other Councillors?---No.

And I include, I should be clear, within the phrase "other Councillors", the Lord Mayor?---Yes, of course. No, she did not.

40

So if I was to suggest to you that on the 28th somebody, one of the Councillors was considering or advocating for a motion to suspend Mr Mileham as substantive CEO, that would take you by surprise? You wouldn't know anything about

45 that?---That's news to me right now.

I'm going to ask you to speculate, is that something you would have

supported?---Absolutely not.

Is that because, as you've said just a moment ago, you had no issue with  
Mr Mileham being the CEO of the City?---I had no issue with the Mr Mileham  
5 being the CEO of the City.

So it's correct then that you didn't share the views of Councillors Harley and Green  
about Mr Mileham?---I did not.

10 .

I'm going to play now, Mr Hasluck, the audio from the Special Council Meeting,  
just the first portion of the Special Council Meeting?---Yes, okay.

15 And then ask you some questions following on from that?---Okay.

Subject to that, I'll be coming towards the end of my questions for you?---Thank  
you.

20 Madam Associate, if we could play the audio please.

(Audio played to the court)

[12.45 pm]

25

Thank you, Madam Associate, you can pause it there. Do you recognise that  
audio, Councillor Hasluck?---I do, yes.

That's the audio of the meeting on the 27th, that's right?---That's right.

30

So I have some questions arising out of that. The first is, other the Councillors  
who are listed on the motion, did you discuss the motion in advance of the Council  
meeting, with your other Councillors?---I don't believe so.

35 Is there a reason why that did not happen?---No.

Was it a deliberate course to not discuss the motion with the other Councillors who  
were there, the Lord Mayor and Councillor Adamos?---No.

40 Are you able to give any reason why it wasn't done?---I'm not.

You heard on that audio that you were asked to speak to the amendments?---Yes.

45 Between the motion as put and the earlier version of it and you didn't do  
that?---That's right.

Why not?---Again, as I mentioned earlier, I don't have a legal background and

Councillor Barton had made a - two amendments which were , as I understand, legal terminology changes, of which I didn't understand.

5 You might recall and we could go back to it if you'd like, that Councillor Adamos, I think, or perhaps the Lord Mayor, simply asked you to point out where the differences were?---Yes.

10 It sounds from that answer that's something you could have done?---I couldn't because I didn't know the difference between the layperson's terminology versus the legal terminology.

15 But could you point out where the change had happened, where the text had actually changed?---I can't right now. At that moment, I didn't have it highlighted. As you can hear, it was fairly intense and I didn't have the answer that the Lord Mayor was seeking at the time, a specific answer that the Lord Mayor was asking.

I think you described it, what we could hear "it was a bit intense"?---It was.

20 Is that reflective of Council meetings generally in your time as Councillor?---Not all of them, no. They seemed to become increasingly - I don't want to use the word "hostile" but for want of a better word, they were almost hostile.

25 Would you agree with me that listening to that, it sounds like a bit of a fractious environment that afternoon?---That was the end. Yes, that was probably the lowest point.

30 Would you agree with me when I say, it seems like it was fractious as between the Lord Mayor and Councillor Adamos on one side of the fence and you and the other Councillors who moved the motion on the other side of the fence?---For this item, yes.

For that Council meeting that we just - for that portion of the meeting?---Yes, correct.

35 That is the reason, the fact that it was fractious between those two parts of Council?---M'mm.

40 Why you didn't discuss the motion with the other side?---No, that's not true. Please remember, the Lord Mayor is located on separate floor. The Lord Mayor is located - - -

45 She has a telephone?---She has a telephone. The Councillors see each other on a daily - if they are in the Chambers, or sorry, in the Councillors' floor, on lot more than you would see the Lord Mayor. So there wasn't an opportunity there and as for Councillor - - -

Did you take opportunity - did you make - - -?---I didn't see the need to.

You didn't see the need to discuss this motion from the Lord Mayor?---No.

5 A motion that would contemplate and effectuate a change to the Acting  
CEO?---Yes.

And it's the Lord Mayor, isn't it, who works most closely of Councillors, with the  
CEO or the Acting CEO?---That's true, yes.

10 So do you think that the Lord Mayor might have a view about the change?---I'm  
sure she did, as every individual did.

And in those circumstances, I don't understand how you can say it wasn't necessary  
or why you needed to speak with the Lord Mayor?---I didn't see the need to.

15 Notwithstanding her working relationship with the CEO?---I didn't see the need to,  
no.

20 Do you see the need to now, now that I'm suggesting it to you?---Hindsight's  
brilliant, isn't it?

Is that a yes, Mr Hasluck, or a no?---No. Even now - look, yes. I will just say to  
you yes, I probably should have picked up the phone or spoken to the lady, but - - -

25 If it was a different Lord Mayor, do you think you would have picked up the  
phone?---No. My relationship with the Lord Mayor wasn't particularly fractured.  
I'd only - remember, the Lord Mayor came back in January. She had returned from  
sabbatical in January, so it was only a very short period in which the Lord Mayor  
and I actually interacted.

30 And you will recall during that passage of time, the passage of the audio, I think  
the Lord Mayor asked you, "Did you craft it", in reference to the  
motion?---Correct.

35 And you said, "Yes"?---I did at that time, yes.

But here today, you've told the Inquiry that you didn't craft it?---Because that's the  
truth.

40 So why did you tell the Lord Mayor, the other Councillors, people present and the  
ratepayers of Perth that you had?---I don't have an answer for that. I think that  
under the stress and the pressure that we were under at that moment, I wanted to  
just simplify and streamline and my natural reaction was to say yes, it was my  
document.

45 Did you have any reason in your mind at that time why you couldn't say, "No, it  
was Councillors Green and Harley"?---I would have loved to have. If I look back

today and say, I would have just said that, but I can't look back. I can't take back time and do that.

5 COMMISSIONER: No-one's asking you to do that?---I beg your pardon?

No-one is asking you to do that. At this meeting, when you were asked that question, did you know that you had not crafted it?---Yes, I did.

10 Why did you, rather than speaking about everyone else, why did you give that wrong answer?---That was my mistake.

Why did you make the mistake is what I want to know?---I don't have the answer for that, sir. All I can say to you is I was under a lot of pressure at the time. I just wanted to get the meeting over.

15 Pressure from whom?---I beg your pardon?

Pressure from whom?---In general, I think that the meeting was very tense, I think that the Lord Mayor asking me questions, and looking back, they were valid questions. She was not asking me an unreasonable question.

Mr Beetham.

25 MR BEETHAM: One inference that might be drawn from all of the events leading up to that motion, Mr Hasluck, is that the real force behind the motion was Councillor Harley and Councillor Green and then you put up the motion to disguise that fact and then when you were asked the question, "Did you craft it", you said, "No" to continue to disguise that fact.

30 COMMISSIONER: Yes.

MR BEETHAM: Pardon me, you're quite right, sir. When you said, "Yes", you did craft it, in response to the Lord Mayor's question, you did that part that as part of this process of disguising who was truly behind the motion; was that anything to do with it?---No, that's not true. That is not true.

35 Can you understand how a person might reach that view based on that series of events?---They might, but that is not - that was not the intent of my actions in putting that motion forward at all.

40 I will just ask you questions about the following day, with your leave, sir.

COMMISSIONER: Yes, of course.

45 MR BEETHAM: Before we break for lunch.

The following day, I understand the Council had a meeting with the Minister, is

that right?---Yes.

At Dumas House?---We did.

5 And was all of the Council there?---No.

Who was there?---Councillor Barton, Limnios, Harley, the Lord Mayor, Adamos and Limnios.

10 Barton, Limnios, Harley, the Lord Mayor, Adamos and yourself?---Yes. Davidson was not there but she was connected via telephone.

I see. How long did the meeting go for?---I would say half an hour, I'm estimating.

15 Were you told at that meeting that the minister intended to suspend Council?---Yes.

So that's the point at which you knew that was going to happen?---Yes.

20 Did you express a view about whether or not that was a good or a bad idea?---I did. I did speak with the Minister in that room and I had said - I had asked him to give a show cause notice as opposed to immediate suspension

[1.00 pm]

25

By show cause notice, do you mean show cause as to why you ought not be suspended?---That's right. I believe there was two mechanisms the Minister could have taken.

30 And that was your preferred mechanism at the time?---Well, that's what I asked him. That's what I asked him to consider.

Did anybody else express a view as to whether or not Council should be suspended, any of the other Councillors?---I know others spoke but I don't remember what they said.

35

Do you remember the Lord Mayor saying anything?---Yes, I was going to say, I remember the Lord Mayor welcoming - I very vividly remember her saying that she welcomed his actions, to immediately suspend.

40

Did she say why?---I don't remember why.

Is that answer to say you don't remember whether she did say why or she did but you don't remember what it was?---I think she did. I think she went on but I don't remember what she said.

45

Did anybody else express that view?---Adamos may have. I recall - I don't know

for sure so I would rather just say I don't recall.

You don't remember?---Yes.

5 Just bear with me, Mr Hasluck?---Thank you.

Sir, I've got a few questions left with Councillor Hasluck, only about 10 or 15 minutes but it might be convenient to take the adjournment and deal with those after lunch. They are on a slightly different topic.

10

COMMISSIONER: I will adjourn now until 2.15 this afternoon.

MR BEETHAM: Thank you, sir.

15

**WITNESS WITHDREW**

**(Luncheon Adjournment)**

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HEARING RECOMMENCED AT 2.16 PM

**MR Steven Jeffrey HASLUCK, recalled on former affirmation:**

5 COMMISSIONER: Ms Randall, you appear in place of Mr Fotheringham?

MS RANDALL: Yes, Commissioner, with your leave.

COMMISSIONER: Yes, of course.

10

MS RANDALL: Thank you.

COMMISSIONER: And Mr Hart, you appear in place of Mr Russell?

15

MR HART: May it please you, Commissioner.

COMMISSIONER: Yes. Thank you, Mr Beetham.

20

MR BEETHAM: Thank you, sir.

Mr Hasluck, the last question I wanted to ask you about in relation to the Special Council Meeting before we move on to another topic?---Yes.

25

Is during the course of your evidence earlier today, you gave some pretty emphatic evidence to the effect of, had you known about those complaints to the Local Government Standards Panel made by Mr Mianich in respect of Councillors Green and Harley, you would not have had anything to do with the motion, that's right?---That's correct.

30

And your evidence, as I understand it, was you found out about those complaints for the first time yesterday or Monday?---That's right.

35

Do you recall when we played the audio of the Special Council Meeting, the Lord Mayor asking you a question as to whether there was any connection between the complaints lodged by Mr Mianich about certain Councillors, and the Lord Mayor doesn't name the Councillors, and the motion that was put forward, do you remember that?---Yes, I recall listening to that today.

40

Can you recall that being asked on the day?---No.

Are you able to say whether, following that meeting or during that meeting, you asked Councillors Harley or Green or anybody else in the motion, what that was about?---No, I didn't. I hadn't actually taken that in. I hadn't absorbed - - -

45

Your evidence is that you hadn't absorbed that question?---That's correct.

You recall the question was, I think directed to the meeting at large?---M'mm.

I can go back and play it again if you like, but my recollection is there was quite a lengthy pause between when the question was finished by the Lord Mayor and when a response was given, which I think was given by Councillor Harley; do you  
5 remember hearing that pause that I'm talking about?---Yes.

I'm going to suggest that during that pause, you in the Council room would have been aware of the question then and perhaps unsure how to respond?---No, that's  
10 not right.

That's not right?---No, that's not right. I didn't - I was not aware of what - of the point she was trying to make. I hadn't put it together that what she was referring to was this information that I found out about yesterday.

15 When Councillor Harley responded to the question?---Mm hmm.

I think it was Councillor Harley who responded to the question during that meeting?---Mm hmm.

20 Did that not trigger you to go and ask him about it later, and go, "What was that about"?---No, it didn't.

And it's still your evidence, notwithstanding what we have heard on that audio, that the first time you heard about those complaints - - -?---Correct.

25 - - - was yesterday?---That's right.

Mr Hasluck, I now just want to ask you some general questions about your experience at the City and the culture of the City while you were  
30 there?---Mm hmm.

I know you've given some evidence already this afternoon, just before the break, that you had - I'm going to paraphrase - a reasonable relationship with the Lord Mayor, is that correct?---It was a reasonable relationship, yes.

35 And what was your relationship like with the our Councillors on Council while you were there?---Very sort of workman like.

40 Did you have any problems with any of the Councillors?---No.

Did you dislike any of the Councillors?---Pardon?

Did you dislike any of them?---No.

45 Did you find any of their behaviours, or did you disapprove of any of their behaviours, as Councillors?---Yes.

What behaviours?---Well, I observed on occasion what I felt was inappropriate behaviour.

5 Can you give an example?---I can give an example of the way that individual Elected Members would speak with senior staff at the City.

10 Please give us an example of one of those occasions?---There were numerous occasions whereby Councillor Limnios, I felt, inappropriately talked to the CEO, or spoke to the CEO, Martin Mileham. I felt that his demeanour and his approach and his overall tone was inappropriate.

15 What about it was inappropriate?---The way in which he spoke at a raised tone, the body language, leaning forward with the hands pounding the desk. This is an inappropriate - - -

This hands pounding the desk, is this something you remember seeing him do?---Yes, I do.

20 When was this?---This was at the very late stages, so prior to Mileham going on stress leave, but I'd suggest maybe January but I'm - - -

Was it at a Council meeting or some other interaction?---No, it wasn't at a Council meeting.

25 Where was it?---It was in a general - either a committee meeting or some sort of meeting in which of the committee rooms that we had.

Did you raise this behaviour with Councillor Limnios?---No.

30 Was it discussed amongst - when I say was it discussed, was this type of behaviour, whether it was limited to Councillor Limnios or others, discussed within Council?---No, and I think that it was widely - I think this had gone on for some time. I don't know for certain but it was certainly - there were aspects that I was seeing that didn't sit right with me, of people's behaviour that, in my view, had been going on for some time. It wasn't something that had just happened overnight, I didn't think.

You got the impression, did you, that it had been an ongoing issue?---Yes, I did.

40 Was this type of behaviour considered by Council? Did Council ever sit down and talk amongst themselves about its behaviour, its relationship with the Executive and how those types of things might be improved or managed?---No, I don't recall that.

45 Were you ever involved in a workshop conducted by an outfit called Bartlett Workplace?---Yes, I was.

And was that directed towards these types of behaviours?---I think it was, yes. I think that it was implemented to try to assist bringing some calm to what seemed to be a fairly disruptive time with a very - it was very much a situation of Elected Members versus the Administration, in my view. It seemed as though it was very,  
5 them and us.

Did you consider yourself involved in that struggle?---I struggled with it a lot because I come from a business background where we were a team, seeking to achieve great outcomes for whatever we're working on and it was extremely  
10 foreign to me.

This tension between the Administration and the Council?---Yes, that's correct. Yes, it was.

15 Do you have a view as to whether or not that tension, struggle, whatever language you want to use it to describe it?---Yes.

Was caused by the behaviour of Councillors, behaviour of the Executive, a combination of both; can you shed any light on that?---Combination of both.

20 So you thought it went both ways?---Yes, I do.

Were there any members of the Council, other than Councillor Limnios that contributed to it in your view?---Look, I think there were others that showed  
25 frustrations and please understand that I think Councillor Limnios' behaviour was out of a frustration but notwithstanding, it still remains inappropriate. So there were others that would show their frustration, which again, in my view, is not appropriate.

30 Did you share the frustration or did you know where it was coming from?---I could see from time to time where it might have been coming from because there was this constant sort of, almost like a force field or barrier from what Council was wanting to achieve versus perhaps what the Administration would like to see  
35 happen.

You may have heard in this place and in other - in the media you may have heard the City described as dysfunctional from time to time?---That's correct, I have.

40 Did you share that view by the end of February 2018?---Yes.

That the City was dysfunctional?---I think in the end it was, yes.

You said you have a background outside Local Government?---Mm hmm.

45 And a commercial background?---Yes, that's correct.

Was the culture at the City different to the cultures you had experienced in your

other background?---The culture was toxic. It was unlike anything I'd ever experienced before.

5 Can you, to the best you can, expand upon what you mean by that, the culture was toxic?---I had raised concerns with Martin Mileham. Quite frankly, I was quite concerned about Martin and his well-being. Martin and I would meet quite - semi regularly, maybe fortnightly or sort of every three weeks and going through this process of being new, finding who's who in the zoo so to speak, everything was new to me so it was just observations at that time and seeing, okay, that's how that person behaves, et cetera. I had real concerns for some of the Elected Members -  
10 sorry, I beg your pardon, some of the administrative staff at a senior level and particularly for Martin.

15 Concerns about their well-being?---Yes.

What led to have those concerns?---I think that it was fairly apparent to me that these people had been - I'm going to say raked over the coals and been through a very turbulent time for quite a long time and I think that they were getting to a point where they just couldn't take much more. I mean, I raised with Martin at  
20 least on one occasion, and I had asked him whether or not he had explored his views or his abilities - obviously, Elected Members are not - I don't believe we are employees of the City and we are only responsible for employing one person and that is the CEO, Martin's responsible for everyone else, but I had real concerns for Martin and I had raised them and I had asked him whether or not he had explored  
25 his powers or his abilities to be able to steady the ship in terms of the relationship and for his own personal well-being.

Did you raise - I think your evidence a moment ago was it that it wasn't discussed at Council. Is there a reason why you didn't raise in the Council Chamber, for  
30 example, and say, "Look, I've observed this type of behaviour and this culture and I think it needs to change and here's an idea about how we can change it"?---No. I knew that Martin was taking steps and I did speak - I had a relative comfort after speaking with Martin that whilst he was of the view that he had his hands fairly limited - tied, that he was, to the best of his ability, controlling the situation. So I  
35 didn't feel the need to involve myself any further. I left it at that and let him know that I was there for him and if he wanted to talk and vice versa, I think he took the same view, that if I needed to talk, we would both be available to each other.

40 Did you ever raise it particularly with the Lord Mayor as the leader of the City?---No, I did not.

Or the Deputy Lord Mayor?---No.

45 Would you expect somebody in a leadership position within Council to be alive to these issues?---I beg your pardon.

Would you expect somebody in a leadership people on Council to be alive to the

types of issues you're talking about?---I would hope so.

Were they ever raised with you by the Lord Mayor or the Deputy Lord Mayor?---No.

5

And they weren't ever raised by those people as something that the Council could take positive steps towards, rather than just being reactionary to what Mr Mileham was doing?---Could you put that another way for me?

10 [2.30 pm]

Was there ever a proposal put by the Lord Mayor or the Deputy Lord Mayor, or other senior members of Council who had been there for a while?---Yes.

15 About positive steps the Council could do to change the culture, rather than simply waiting on Mr Mileham and his Executive to do it?---No.

In your other life as not a Councillor, have you served on boards and those types of things before?---No.

20

This is your first experience, is it, in a board-like environment?---Yes.

It's been, I think it's fair to say, a brief and intense period between October of 2017 and February of 2018?---Correct.

25

Can you share any insights you might have gained in that time about what you think would contribute to a proper functioning of the Council?---Yes. I went in new. The first thing I did was to try to get all the other Elected Members originally, but going out for coffee and just getting to know them, as these are going to be people that I'd be working with between two and four years and I tried to set a relationship with them, knowing that I'm an independent, free-thinking individual. I'm not looking to anyone's hand in the Chambers to see what they are voting on or what they are deciding on. So I set out to make that very clear from the start, from an Elected Member point of view and from the administrative staff, obviously we have fairly limited access - - -

35

Sorry, I'll just try and bring you back to the question?---Sorry.

Which was, are there any insights you can share about what could improve a Councillor going forward?---Yes, I - - -

40

You were coming to that?---Sorry, long-winded, I will make it shorter.

No, no?---I think that - I understand the requirement of the Council only being responsible for one staff member and I completely accept that, I understand that, but the them and us situation is not a team situation and I can't see how it can function in the most efficient manner if there's that absolute separation. I

45

understand - talk about the CEO Inbox, et cetera, that was put into place, I understand why that was put into place but those are sources of frustration where, if you had a better team situation, you wouldn't have so much friction - I don't think there would be so much friction there.

5

So something more of a - not a merging exactly, but a bringing closer together, is there, of the Council and the Executive?---Correct.

And funneling it through simply the CEO?---Correct.

10

Is that what you mean?---I do. I - - -

Sorry, go on?---The relationships were so sour, from the moment I got there, and I will also say, the situation of an Elected Member at the City of Perth, the moment I was sworn in, absolutely everything changed. It's almost like you're put on a pedestal, and I wasn't there to be put on a pedestal but everything changed, "Can I take your jacket", "Can I push your chair in", and there's almost a nervousness around the staff that they are interacting with an Elected Member and I couldn't understand why that was the case, but it was very real.

15

20

This behaviour you're talking about, the taking of the jacket and pushing of the chair?---M'mm.

Is that from staff employed by the City?---Yes.

25

In Executive or leadership roles?---No.

Who are we talking about?---So, for example, that example was the night of the swearing in, there was a dinner. I entered the dining room and it was just everything had changed. The staff, the wait staff, take my jacket, "Can I push your chair in" and it was just - it was really foreign to me and unnecessary.

30

Did you speak about that view with anybody on Council?---I don't think I did. I was just really taken by it because no-one, in my view, is there to be any better than anyone else. From the cleaner to the CEO, everyone to me was equal, but in reality, I don't think they were and that's why I'm raising this with you, is that I think that when you have people who put themselves or are put on pedestals or seen to be put on pedestals, it can create a whole lot of cultural issues that I think has ended up turning or coming to be over the last number of years.

40

One of the descriptions of the culture at the City from time to time that I've heard is, and it might dovetail with what you're talking about here, is that some Councillors or some parts of Council had a culture of entitlement; is that a view you held?---I actually went on the ABC radio the Monday after being elected, on Geoff Hutchison's program and I said that the age of entitlement at the City of Perth was over.

45

And was it over in your time, while you were there?---It wasn't. If only I knew what was actually going on. I really ran on a situation of new and fresh and no more entitlement and that's why, when this suspension happened, I immediately came out and said, "Don't pay me" with the sitting fees that were still payable  
5 because I wasn't, entitled to take those fees.

Is that because you weren't acting as a Councillor in a day to day capacity?---That's correct. I copped a lot of flak for that but I think it again goes to the culture at the City. It was not, in my view, appropriate to take those fees. It was a decision I  
10 made personally but I think it speaks to this whole bigger picture that's been at play here.

I will just finish up, just to close off that last part about entitlement?---Sure.

15 Was anything specific that happened or that you observed during your time, other than the jacket and the chair type example, which sort of fed your view that there was a culture of entitlement at the City?---I did have some examples. I acted on behalf of the Lord Mayor, I attended an event on behalf of the Lord Mayor and so, as such I was chauffeur driven in the mayoral vehicle and that, I think it was later  
20 in that week, we had a Council meeting and I wanted to thank Paul Anastas, who's the driver, and I suggested to him that, because it's a Council meeting, we have a dinner after and I suggested that perhaps it would be really nice if he would join me so that I could say thank you for, you know, driving me on that evening and having a late night away from his family. He made it absolutely clear that, "Thank  
25 you, Councillor, I just can't do that. That's not allowed, that's not permitted, we have to sit at the end", and that's it. That again was just this foreign situation that I just didn't understand and again, I thought that was - it speaks to the culture that existed at the City.

30 Did you think that culture of entitlement contributed to the state that the City was in at the time that the Council was suspended?---Yes.

Can you elaborate on how those things are connected, in your mind?---I think that at the end of the day, people were - at the very end, it was just Administration  
35 trying to take control, the Council trying to take control and it was just - at the end of the day it was chaotic, it was chaos and here's where we are now.

Thank you, sir, I have no further questions for Mr Hasluck.

40 COMMISSIONER: Thank you. I will hear applications now. Mr van der Zanden, do you have an application?

MR van der ZANDEN: No, sir.

45 COMMISSIONER: Thank you. Mr van Hattem, do you have an application?

MR van HATTEM: No, Commissioner.

COMMISSIONER: Thank you. Mr Wyatt, do you have an application?

MR WYATT: Yes, I do, Commissioner.

5

COMMISSIONER: In that case, Mr Hasluck, I'm going to ask for you to be excused from the hearing room?---Yes.

10 The convention that's been adopted is that applications are heard in the absence of the witness?---Okay. I understand.

It's no reflection on you?---Thank you.

**WITNESS WITHDREW.**

15

COMMISSIONER: Yes, Mr Wyatt.

20 MR WYATT: My application concerns - his evidence was that he was concerned about the conflict between the Executive and the Elected Council Members. Even though he seemed to have this concern, he forced through a special council or put forward a Special Council Meeting which was opposed by the Executive in circumstances where there's no evidence that they tried to discuss with the Executive before the Special Council Meeting. I'm just puzzled by that dichotomy.

25 COMMISSIONER: So what do you want to ask him about?

30 MR WYATT: I just want to ask him in respect of, that he saw there was a toxic culture, there was a conflict between the Executive and the Council members, and in circumstances where there was that clash, why did he force through that Special Council Meeting and did he think that would solve the problem or make it worse.

COMMISSIONER: Is that the only matter on which you wish to examine him?

35 MR WYATT: Yes, it is.

COMMISSIONER: Thank you. Mr Beetham, what do you say about that?

40 MR BEETHAM: I have no objection in principle, sir, but my recollection of this witness' evidence was that the reason why he'd, to adopt my learned friend's words, pushed this motion at the time that he did was because he had a very strong view that Mr Mianich wasn't the appropriate person for the role during that week, which he described I think as turbulent or tense, and Ms Battista was a better person. I think it can be inferred from that that he was of the view that Ms Battista would be a stabilising influence on the City at that time. That can perhaps be clarified if my  
45 friend would like to and I have no strong objection to that.

COMMISSIONER: My interpretation of what Mr Wyatt is seeking to do is to

deal with the matter on a broader basis than the one that you canvassed in your questions, which may or may not, at the end of the day, prove helpful but I'm not inclined to refuse his application.

5 MR BEETHAM: Certainly, sir.

COMMISSIONER: Mr Wyatt, I grant you leave.

MR WYATT: Thank you.

10

COMMISSIONER: Ms Siavelis?

MS SIAVELIS: No application, Commissioner, thank you.

15 COMMISSIONER: Thank you, Ms Siavelis. Mr Skinner?

MR SKINNER: No application, sir.

20 COMMISSIONER: I was going to ask you, do you want me to come back to you there? No application?

MR SKINNER: No application, sir.

COMMISSIONER: Thank you. Mr Hart?

25

MR HART: Nothing from me, Commissioner.

COMMISSIONER: Thank you. Mr Cornish?

30 MR CORNISH: No application, Commissioner.

COMMISSIONER: Ms Waugh?

MS WAUGH: No, Commissioner.

35

COMMISSIONER: Thank you. Mr Harris?

MR HARRIS: No, sir.

40 COMMISSIONER: Thank you. Ms Randall?

MS RANDALL: No application, Commissioner.

COMMISSIONER: Thank you. Ms Saraceni?

45

MS SARACENI: I make no application, sir.

COMMISSIONER: Thank you, Ms Saraceni. Ms Young?

MS YOUNG: Yes, Commissioner, I have an application to make in respect of one question.

5

COMMISSIONER: Yes.

MS YOUNG: Councillor Hasluck gave evidence that in considering the new Acting CEO to replace Mr Mianich, it was his view that Ms Battista was his first preference for that. My question is why and to have him explain the reasons for Ms Battista being his first preference.

10

COMMISSIONER: Thank you, Ms Young. Mr Beetham?

15 MR BEETHAM: No objection to that, sir.

COMMISSIONER: No. It seems like an eminently sensible thing to do.

MR BEETHAM: It does, sir.

20

COMMISSIONER: You have leave.

MS YOUNG: I'm grateful.

25 COMMISSIONER: What I will do, Ms Young, is I will come back to you. In case anything arises out what Mr Wyatt asks, I will hear any further application you might have.

MS YOUNG: Yes. Thank you, Commissioner.

30

COMMISSIONER: Thank you. Madam Associate, would you please bring Mr Hasluck back into the hearing room. Mr Hasluck, please resume your seat in the witness box.

35 **MS Steven Jeffrey HASLUCK, recalled on former affirmation:**

COMMISSIONER: Mr Hasluck, in your absence I heard two applications to ask questions of you?---Okay.

40 And I've granted leave to Mr Wyatt, who acts for Ms Rebecca Moore, to ask some questions of you?---Yes.

On a topic?---Okay.

45 I have also granted leave to your counsel, Ms Young, to ask you some questions on a topic?---Thank you.

So what will now happen is that Mr Wyatt will ask his questions first, followed by Ms Young?---Thank you.

Mr Wyatt.

5

EXAMINATION BY MR WYATT

[2.45 pm]

10 Mr Harley, am I right in understanding - - -?---Sorry, Hasluck.

Pardon?---Hasluck.

15 Hasluck, am I right in thinking that early in your evidence you talked about a toxic atmosphere?---Yes.

You talked about the conflict between the Executive and the Council members?---Yes.

20 Before you put forward the Special Council Meeting or proposed the Special Council Meeting, did you reach out to the Executive? Did you see what their view was?---No.

Is there a reason why?---No.

25

Then when the Executive indicated - do you agree they indicated a strong disapproval or a strong resistance to the Special Council Meeting, did you then reach out to them and explore why they resisted that?---The only information that I had in relation to resistance essentially was the document that was produced earlier.

30

And that was the - - -?---Which was quite late, the 27th.

35 Am I right in thinking that before the Special Council Meeting you had not consulted with the Executive?---That's correct.

Had you spoken to any of your fellow Elected Members, whether they had spoken to anyone in the Executive?---No.

40 So in circumstances - let me retract that question. My recollection of your evidence is that you wanted Ms Battista to be CEO because you thought that would be a calming of the waters?---Correct.

45 In hindsight, and looking back, do you think the Special Council Meeting, the temporary appointing of Ms Battista was in fact a calming of the waters?---Knowing what I know now or what I knew then?

Knowing what you know now?---Knowing what I know now, I've already indicated my answer to that.

Which is?---That is, that I would not have proceeded as I had.

5

Thank you?---Thank you.

COMMISSIONER: Thank you, Mr Wyatt. Yes, Ms Young.

10 MS YOUNG: Thank you, Commissioner

EXAMINATION BY MS YOUNG

15 Councillor Hasluck, do you recall that earlier today you gave some evidence to the Commissioner that in considering a new Acting CEO to replace Mr Mianich, that Ms Annaliese Battista was your first preference?---That's right.

20 Can you explain to the Commissioner why she was your first preference?---I think that Annaliese was the appropriate person. She was - I had experienced working with all of the senior management and I found Annaliese to be the most organised, very well presented, very well spoken. She had her team running exceptionally well from what I understood, in my view, without question, she was my number one choice based on that and other reasons.

25 Thank you, Commissioner. No further questions.

COMMISSIONER: Thank you, Ms Young. Anything arising, Mr Beetham?

30 MR BEETHAM: If I could just briefly clarify Mr Hasluck's final answer to the question put by Mr Wyatt, sir?

COMMISSIONER: I thought you might.

35 MR BEETHAM: Mr Wyatt asked you, Councillor Hasluck whether, knowing what you know now, you would consider the appointment of Ms Battista to be a calming of the waters?---Yes.

40 Your evidence was, as you said earlier in your evidence, knowing what you know now, you would not have done what you did?---That's right.

As I understand that answer, that's responsive to knowing about the complaints, you wouldn't have done what you did, is that right?---That's correct.

45 So when Mr Wyatt asked you whether you considered the appointment of Ms Battista was a calming of the waters?---Mm hmm.

I'm not sure that answer's quite responsive. So I'm just wondering if you can

answer again?---Okay.

Can you consider having Ms Battista in there for those four days, that it did as a matter of fact calm the waters for those few days?---Look, I think that it did, yes.  
5 Two different questions, but yes.

Can you tell me why? Why did you consider that it was a calming of the waters?---I felt I went into Council House every day during that period and instantly, emails starting happening. I could just - there was a feel within the building that things had, even just a little bit changed, for the positive, for the better.  
10

Did you have that feeling even in the short window - in the morning of the 28th before you met with the Minister that afternoon?---Now I'm talking administratively, so with the staff.  
15

Yes, I mean the same thing?---I beg your pardon.

So this feeling you're talking about?---Yes.  
20

Did you experience it between when you got in - let's say you got in on the 28th in the morning, until when you went and saw the Minister, was there a change then?---I don't know if I went in that morning or not. I was definitely in that afternoon.  
25

Perhaps I will put the question this way: when you were told by the Minister that Council was going to be suspended in the afternoon?---Yes.

Did you convey to the City's administrative staff or did the Council convey that to the City's administrative staff that day?---Sorry, I don't understand.  
30

So the Minister told you on the 28th, I think?---Yes.

That Council was going to be suspended?---Yes.  
35

Did you give that information to the City's staff?---Did I tell the City's staff that we were to become suspended?

You or the Council?---No, I don't think so.  
40

So your understanding then is they found out the same time everybody else, when it was announced by the Minister?---I guess, yes.

The reason I'm asking you those questions is I want to just make sure that your understanding of the calming of the waters is attributable to Ms Battista or whether it's attributable to the suspension of Council?---Mm hmm.  
45

And knowing that I just put that proposition to you, is it still your view that it was attributable to Ms Battista?---Administratively, yes, I think that she got straight in to do good work.

5 And your reason for forming that view is, while you were there during the week it felt - it seemed a bit calmer?---It did, it really did.

Thank you, Mr Hasluck?---Thank you.

10 Thank you, sir.

COMMISSIONER: Thank you, Mr Beetham. Are there any other housekeeping matters?

15 MR BEETHAM: No, sir.

COMMISSIONER: What I will do shortly is I will adjourn the proceedings to allow the arrangements to be made for the next witness. I will adjourn for the short time so that can happen. In the meantime, Mr Hasluck, I want to thank you  
20 for your evidence. It has been of assistance to the work of the Inquiry?---Thank you.

I will now adjourn pro tem.

25 **WITNESS WITHDREW**

(Short adjournment).

HEARING RECOMMENCED AT 3.02 PM

30

COMMISSIONER: I will adopt the same procedure with this witness as I have with the last. Mr Beetham, do you call your next witness?

35 MR BEETHAM: Yes, sir. I call suspended Councillor Reece Harley.

COMMISSIONER: Thank you. Mr Harley, please come forward to the witness box. Thank you. Take a seat. Mr Harley, do you wish to give your evidence on oath or make an affirmation?

40 MR HARLEY: Affirmation, thank you.

COMMISSIONER: Thank you, Madam Associate.

**MR Reece James HARLEY, affirmed:**

45

COMMISSIONER: Thank you. Take a seat, please, Mr Harley. Mr van Hattem, do you have an application?

MR van HATTEM: Yes, I seek leave to appear with my learned friend  
Mr Malone on behalf of Mr Harley. Commissioner, I also seek your leave to leave  
the Bar table after 4 pm and for Mr Harley at that time to be represented only by  
5 Mr Malone?

COMMISSIONER: I can't imagine there will be any difficulty with either matter.

MR BEETHAM: No, there isn't, sir. No objection to either of those.  
10

COMMISSIONER: Thank you. Leave is granted. Ms Saraceni?

MS SARACENI: I seek leave, sir, to continue to represent Mr Mileham and his  
interests in relation to this witness.  
15

COMMISSIONER: Leave is granted.

MR BEETHAM: Sir, I should say no objection and I will adopt the previous  
approach of not objecting to any of the other applications either.  
20

COMMISSIONER: I may have misheard you, I thought you had said that already.

MR BEETHAM: Perhaps I did. I apologise, sir.

COMMISSIONER: That's all right. Ms Randall?  
25

MS RANDALL: Commissioner, I seek leave on behalf of Mr Robert Mianich to  
appear and be represented at this afternoon's hearing.

COMMISSIONER: Leave is granted. Mr Harris?  
30

MR HARRIS: Sir, I seek leave on behalf of Ms Barrenger. Our application was  
filed earlier this afternoon.

COMMISSIONER: Thank you, Mr Harris, for both and leave it granted.  
Ms Waugh?  
35

MS WAUGH: Commissioner, I seek leave to appear on behalf of Ms Barton.

COMMISSIONER: Thank you, leave is granted. Mr Cornish?  
40

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

COMMISSIONER: Thank you, Mr Cornish, leave is granted. Mr Hart?  
45

MR HART: May it please you, Commissioner, I seek leave to appear for Paul

Crosetta.

COMMISSIONER: Yes, thank you. Leave is granted. Mr Skinner?

5 MR SKINNER: May it please you sir, I seek leave to appear on behalf of Mr Linnios.

COMMISSIONER: Leave is granted.

10 MR SKINNER: Thank you very much, sir.

COMMISSIONER: Ms Siavelis?

MS SIAVELIS: Commissioner, I seek leave to appear on behalf of Ms Battista.

15

COMMISSIONER: Thank you, Ms Siavelis, leave is granted. Mr Wyatt?

MR WYATT: Commissioner, I seek leave to appear on behalf of Rebecca Moore.

20 COMMISSIONER: Thank you, leave is granted. Ms Young?

MS YOUNG: With your leave, for Mr Hasluck.

COMMISSIONER: Leave is granted. Mr van der Zanden?

25

MR van der ZANDEN: Commissioner, I seek leave on behalf of Ms Scaffidi.

COMMISSIONER: Leave is granted. Mr van der Zanden, I'm going to have to move you at some stage on that Bar table so I don't come to you at the end of every roll call.

30

MR van der ZANDEN: I'm quite happy here, Commissioner.

COMMISSIONER: Very well. Yes, Mr Beetham.

35

EXAMINATION-IN-CHIEF BY MR BEETHAM

Mr Harley, may name is, as you heard, Mr Beetham, and I want to ask you some questions about the events of, primarily, 24, 25, 26, 27 and 28 February 2018 in relation to the enactment of the Crisis Management Plan by the Executive of the City; do you know what I'm talking about there?---Yes.

40

And a motion that was put up by yourself and some other Councillors on the 27th to amend the policy and appoint Ms Battista as Acting CEO?---Yes.

45

You know what I'm talking about there as well?---Yes.

Madam Associate, could we bring up the motion, please, at 11.0415, TRIM reference, sir, 14283.

5 COMMISSIONER: Thank you.

MR BEETHAM: Can you see it on the screen in front of you?---Yes.

Is that big enough for you to read?---Yes.

10 Is that the motion that was put - - -

COMMISSIONER: Could we enlarge that for others because there are a number of counsel at the Bar table sharing screens and Mr Harley's eyesight is obviously good, but that may not be said of everyone else.

15

MR BEETHAM: Certainly, sir, and I have the advantage of a hard copy.

COMMISSIONER: Thank you.

20 MR BEETHAM: Thank you, Madam Associate.

You will see there, Mr Harley, this is a request of the CEO of the City of Perth and the request is dated at the top 24 February 2018 and you will see it's to schedule a Special Council Meeting on 27 February 2018?---Yes.

25

Can you recall who the CEO or Acting CEO of the City was around this time?---Mr Mianich.

30 And you will see that this motion has two primary elements to it: item 1, that the Council Policy be amended in certain ways and you will see item 2, "The Council appoints" blank "to the role of Acting Chief Executive Officer"?---Yes.

35 Can you tell the Commissioner, to your knowledge, how did this motion come to be?---Yes. The CEO was on stress leave and had appointed Mr Mianich to act in the role as CEO. That was a situation that the majority of Councillors felt uncomfortable with and we discussed at the time that the Local Government Act provided us with the power to nominate an Acting CEO but that this policy, as it had previously been operating, had provided that power solely to the CEO, who was on stress leave.

40

Can I interrupt you there?---Yes.

45 And just try to clarify some of that. You said that a majority of Councillors were uncomfortable with the position of, as I understand it at least, Mr Mianich being the Acting CEO?---That's right.

And Mr Mianich was appointed to be Acting CEO on 16 February, is that your

recollection?---I accept that to be the case, yes.

And that was the day that Mr Mileham took stress leave from the City, the Friday?---Yes.

5

Which was some eight days, if my math is correct, before this motion was put up?---Yes.

10 Was there discussion amongst you and other Councillors in the period between the 16th when Mr Mileham took leave and appointed Mr Mianich, and this date, about your discomfort with Mr Mianich?---Yes.

15 When was the first time that you had that discussion?---I can't recall an exact discussion but I do recall that there had been a conversation around a few matters.

With whom?---Amongst the group of Councillors that had signed the letter.

20 So just so I'm clear, you're saying there was a discussion with all five of yourself - -?---Not present.

Pardon?---Not present at the same time but discussions amongst Councillors verbally about the situation that we were in.

25 Do you remember who initiated those discussions?---No, I cannot recall. I know that I had participated in discussions, I'm not sure about what other discussions were happening that I wasn't a party to and I - - -

30 Can you recall when you first had a discussion about it?---I remember speaking to Councillor Green about the situation, not on which date but obviously there were lots of discussions that were had in a very short space of time upon the CEO announcing that he'd gone on stress leave.

35 So the CEO - can you recall when you found out that the CEO was going on stress leave?---I can't recall the exact circumstances. I presume we would have been issued some correspondence in writing.

If I was to suggest to you you were notified on or about the 14th, would that sound about right?---I can accept that, yes.

40 Do you think you had discussions with Councillor Green, I think is who you mentioned, between that date and the 16th?---Yes. Yes, I can imagine that was the case, yes. I can't recall a specific conversation but Councillor Green and I were in conversation often during the period.

45 When was the first time that you recall discussing Mr Mianich as Acting CEO with any of your other Councillors?---I can't recall an exact circumstance, I'm sorry.

Are you able to say whether it was early or later in the period when Mr Mianich was Acting CEO?---What I can perhaps offer to you is that during this period, I had a meeting with Mr Mianich to discuss the CEO being on stress leave and at that meeting, Mr Mianich advised me that the CEO was on an indefinite period of stress leave and that he had engaged a solicitor to represent him. That meeting was one held in the CEO conference room adjacent to the CEO's office, in the presence of Mr Ridgwell and it was that - those two pieces of information that really concerned me greatly about the situation, both that we had a CEO who was away for an indefinite period of time and also that he had engaged legal counsel to represent him, formed my view that we had a CEO who potentially wasn't ever returning and who was also adversarial to the Council and was potentially going to launch some kind of legal action against us. So this was the major red flag.

For you?---That's right.

And you say that was a meeting in the CEO conference room?---Yes.

And Mr Ridgwell was at it?---That's correct.

Can you locate it in time? Can you say when?---In this period.

So while Mr Mianich was at the City?---While he was the Acting CEO, yes, before he went on stress leave.

And this is a conversation that would have happened, I assume, before this motion was put up?---That's correct.

So can we safely assume it's been the 19th and the 24th?---You could, yes, absolutely, in that period of time.

You're not able to put a finer point on it than that, finer date on it than that?---No, although I'm sure there would be some kind of record to assist. I recall my back was to the window, I was sitting opposite Mr Mianich and Mr Ridgwell was to my left.

Did Mr Mianich tell you what Mr Mileham had engaged counsel for, other than a legal dispute?---He used the exact words, "Mr Mileham has appointed a solicitor" - I think he said, "Martin has appointed a solicitor."

Did you ask what about?---I cannot recall if I asked because I believe that I already knew the answer and it was in relation to his taking stress leave.

Did you at that stage appreciate that he considered that there had been a breach of his employment contract?---Yes.

Relating to certain things that had happened?---Yes, and I believe we had perhaps received correspondence to that effect prior.

This is at the point at which the red flag went up for you, is it?---Yes.

5 That there was a concern about who would be CEO?---Yes, because how long will this continue for? How long will we have an Acting CEO not of our choice in the role leading the City during a very important time.

10 Did you have a view about Mr Mianich's capacity to lead the City at this time?---Yes, I didn't think he was the right person for the role.

15 Why do you say that?---Well, Mr Mianich had been at the City for a long period of time and I didn't have any problems with him acting in the role for a short period. If that was to be an extended period, and if it was to be a period during which the Council might be suspended, would be meeting with the Minister, would be fronting media queries, I didn't think that Mianich was the right person for the role. I believed that Annaliese Battista, given her skills, experience and the trust that I had in her abilities was the right person for that period

[3.15 pm]

20 So at this stage then, did you anticipate the Minister suspending Council? Was that something you were concerned was going to happen?---I think all Councillors were actively talking about the fact that it was a likelihood and it was something that I believed was likely.

25 What made you think that that was a likely outcome?---Can I say, I believed it was more likely that the Minister would have issued us with a show cause notice. I thought that a suspension was less likely.

30 What made you think these things were possible in the first place?---Well, the City of Perth was on the front page of The West every day, there were constant issues cropping up. Obviously the CEO goes on stress leave, in my view it was him pulling a grenade and - - -

35 What do you mean by that phrase?---I had a view that the Administration were very happy and eager for the Council to be suspended, in fact, that they were not happy at the politics of the Council, that they, you know, weren't happy that there was a new majority that wasn't aligned to the Lord Mayor and I thought they felt it was in their interests to blow up the joint and I think I said that at a press  
40 conference at the time.

You said there was a new majority that was not aligned with the Lord Mayor?---Correct.

45 That is the group of five - if you scroll down - - -?---Yes, it is.

- - - on this motion, Madam Associate. That's these five here?---Yes.

So did you consider this was an aligned group of five Councillors?---I did, yes.

At the time of signing this motion?---At the time, yes, I did, yes.

5

And prior to that?---Yes.

You probably heard alignments on Council described as a faction, would you accept that description?---I don't like the language, no, I don't. I don't accept that.

10

Factions as they are understood in common language are binding groups, have rules, if you look at factions in State and Federal politics. This was a group of Councillors who had aligned views on many things but even during the short period of time, voted in different ways on different matters. So it was a group - - -

15

Given that - - -?---A friendly group.

Given that description, is there a reason why you describe it as a majority, "There's a new majority in our Council"?---Yes. That's five in nine.

20

I appreciate that but your evidence a moment ago was that they voted in different ways on lot of the time?---On core issues, key alignment on core issues, particularly around transparency.

25

So you formed the view that there was a majority in relation to those key issues?---Yes, not a majority in relation to all things and not a group that was binding.

Just a majority in relation to those particular core matters?---A majority in relation to the core matters that the City was facing at the time.

30

Including the possible suspension of Council and who would be CEO during this period?---That's correct.

That's what I understand your evidence to be?---That's correct.

35

I think your evidence earlier was the first person you decided to speak to about this motion was Councillor Green?---Yes.

40

And you can't recall when that was?---It would have been early in the piece and perhaps momentarily after receiving the email, I imagine I would have got on the phone.

Which email?---The email notifying us that Mr Mileham was going on stress leave.

45

Did you involve anyone else in the discussion at that point, other than Councillor Green?---I can't recall.

5 When did you start to speak with the other Councillors that we see here on the motion?---In the period after which I had the meeting with Mr Mianich and was informed that Mileham was on an indefinite period of leave.

But you can't recall exactly when that was?---It would have been relatively early in the piece. If we are talking about the 16th to the 24th, I could assume that - - -

10 COMMISSIONER: We don't want you to assume anything?---I cannot recall the specific details.

MR BEETHAM: I saw you were here in the hearing room for the tag end of Councillor Hasluck's evidence?---Yes.

15 Did you see his previous evidence?---No.

Mr Hasluck gave some evidence that he spoke with you or you spoke with him about this type of notion contained in the motion on or about the Thursday or 20 Friday of this week?---Happy to accept that.

You don't quibble with that?---I don't quibble with it, I think it is logical that it would have occurred around the time.

25 Is it the case that you had similar discussions with Councillor Limnios at about that time?---Yes.

And Councillor Barton?---Yes - sorry, I'm not sure if I had those conversations.

30 That's what I'm asking?---With every Councillor.

All I'm asking is, who did you speak to?---I accept that I spoke with Councillor Green and Councillor Hasluck, if that is his evidence but I can't recall specific conversations with others. There was an email chain - - -

35 COMMISSIONER: Sorry, just stop there?---Yes.

40 It concerns me that you should say you accept that you had a conversation with Councillor Hasluck if it's his evidence?---Yes.

What you're being asked about by counsel is what you remember?---As I've said, commissioner, many times - - -

45 Just a moment. Don't interrupt me. I want you to speak to your memory, all right?---Mm hmm.

Speak from it and to it. Don't make assumptions, don't go off on a tangent when

you're being asked a question, just stick to the answer to that question. We have had this discussion before, Mr Harley?---Mm hmm.

Mr Beetham.

5

MR BEETHAM: Thank you, sir.

Do you have any recollection of speaking with Councillor Limnios?---No.

10 About this motion?---No.

Not at all?---I believe there was email correspondence. I think that Councillor Green was - - -

15 Sorry, we will take it one step at a time, Mr Harley. Do you have any recollection at all of you speaking with Councillor Limnios?---No.

Do you have any recollection of you corresponding with Councillor Limnios about this motion?---Yes.

20

By email?---Yes.

Before the motion was signed?---When the motion was in draft.

25 When the motion was in draft?---Yes, some draft versions of the motion had been circulated amongst the group of signatories.

Does that same set of circumstances prevail with respect to Councillor Barton?---Correct.

30

Do you have any recollection of speaking with her?---No.

So your only recollections are of speaking - well, you accept that you may have spoken with Councillor Hasluck based on his evidence?---Yes.

35

But you don't recall it?---Correct.

But you do accept that you spoke with Councillor Green?---Yes, and I accept that I spoke with Councillor Hasluck because we met on the Saturday morning to work on the draft of the letter, but I think your question was about a different topic.

40

It was?---Yes.

45 So I will come to the Saturday morning. Did you exchange correspondence with Councillor Green before that Saturday as well in relation to the motion or the notion of the motion?---I believe there was a draft of the motion which had been sent amongst the group.

And who prepared the draft?---Councillor Green prepared the draft and I provided input, as did Councillor Hasluck.

5 So Councillor Green prepared the first draft of the motion?---Yes.

Were you there when Councillor Green did that?---I was there for part of the time when Councillor Green did that.

10 When did she do that?---In, let's say, the Friday before the Saturday meeting.

During the day of the Friday?---Yes.

And where was that preparation undertaken?---I presume at her home.

15

Sorry, you said you were there for part of it?---No, it was digitally. Councillor Green prepared the motion digitally and then we met on the Saturday morning.

20 So at no stage on the Friday were you and Councillor Green together working on the motion itself?---Not that I can recall.

But you recall receiving a digital version of it on the Friday?---Yes.

From Councillor Green?---Yes.

25

And was the form that you received from Councillor Green similar to the form that you see on the screen in front of you?---No, in that the - well, the form of it was based on the existing policy with some minor amendments. So it had been copied out of the Policy Manual into a Word document and then was being worked on to ensure that we got the policy correct. So it's in the rough form without the signatories.

30

But was the motion - did it have item 1, that there be a policy amendment?---Sorry, it's just off the screen.

35

I apologise. Madam Associate, if you could just scroll down?---Well, did it have 1 at the time? I don't believe so. It was a text of the policy itself that was being worked on.

40 Did it have number 2, "The Council appoints" blank "to the role of Acting Chief Executive Officer"?---No.

Not in the draft that you saw?---No, it was the policy itself, which is in different type font, so it was this section.

45

It was just that section that's in the smaller type font on the screen that was sent to you in the first place?---That's correct.

And then did you work on the document on the Friday?---Yes, I believe in writing I provided some amendments to the policy on the Friday before the meeting on the Saturday.

5

When you received the email, I assume it was by email that you received the draft version from Councillor Green?---I believe so, yes. Yes, it was.

10 Was that email just to you or do you recall distinctly that it was also to any of the other Councillors on the motion?---I do not distinctly recall. It may have been a group email.

So it may have been, is it possible that it might also have just been to you?---Yes, it's possible.

15

And did you, after amending it, send it back to Councillor Green?---Yes, I believe so. I believe so.

20 Do you have any recollection of sending it to anybody else on that occasion?---No, not - I didn't, not to my recollection.

Your recollection is you amended it in some way?---Yes.

Sent it back?---That's right.

25

To Councillor Green on the Friday?---Yes.

And then on the Saturday morning there's this meeting that you've mentioned?---Yes.

30

And where was that?---At the - in the backyard of Councillor Green's house.

And who was at the meeting?---Myself and Councillor Green and Councillor Hasluck.

35

Did you and Councillor Hasluck arrive at Councillor Green's house together?---So I arrived first and Councillor Hasluck arrived second.

40 Did you contact Councillor Hasluck and ask him to turn up?---I may - yes. I'm 70 per cent sure that I did, yes.

70 per cent sure?---70 per cent sure.

45 Is it fair to say he didn't spontaneously turn up?---No, he was invited by either myself or Councillor Green but I cannot recall with 100 per cent certainty but I believe that I did.

And did you invite Councillors Limnios or Barton to that meeting?---Yes.

5 And did they turn up?---No. Councillor Barton had childcare responsibilities and wasn't able to turn up and Councillor Limnios also wasn't able to turn up, for some reason. I believe Councillor Green liaised with both Councillors Barton and Limnios.

You didn't liaise with them?---No.

10 Your understanding is Councillor Green did?---Yes.

So your evidence about where Councillor Barton was and where - - -?---Comes via Councillor Green.

15 At this meeting in the backyard of Councillor Green's house, can you tell the Commissioner what happened. What did you do?---Yes, we discussed the need for the policy, we discussed the policy. We discussed what was reasonable for an organisation in these circumstances where we believed that the CEO was away on stress leave, had appointed a lawyer and in our view, probably wasn't coming back.  
20 We discussed, well, in that circumstance where we have got someone away from the organisation calling the shots as to who's the Acting CEO didn't seem appropriate. We read the Local Government Act and reaffirmed our view that it was - - -

25 I will interrupt you?---Yes.

When you say "we read the Local Government Act"?---Councillor Green and I digitally accessed the Local Government Act through the Austlii website in the presence of Councillor Hasluck.

30 And the three of you read through the whole Act or parts of the Act together, did you?---The relevant parts of the Act, and - which are outlined in the policy, to reaffirm our view, I guess to double-check our view that notwithstanding the policy in normal circumstances, the Local Government Act does empower the  
35 Council to appoint an Acting CEO and we amended the policy as such, or we drafted an amendment to the policy as such.

40 And was the policy and the motion as we see it on the screen in front of you, was it settled at that meeting?---No. There had been some amendments around "absent from work for more than one business day or at work but interstate or overseas", I think there had been some minor amendments.

So the answer is no, is that right?---That's right.

45 It wasn't in this form. By the end of that meeting, however, was the motion in a form that indicated 1, 2, the two separate items on the motion?---Yes.

Was there at any stage in item 2 where it says, "Council appoints" blank "do the role of Acting Chief Executive Officer", was there ever a name in that?---Not to my recollection.

5 It was always left blank?---Yes.

Did you discuss this motion with the Lord Mayor?---No.

Before it went up to Council?---No, I did not.

10

Or anyone else other than the four other people on this motion?---I trying to recall. Councillor Green and I liaised with the Local Government Department on some matters, seeking advice from Ron and Jillian Murphy in the Governance section.

15 On this version of the motion?---I cannot recall if it was on this matter but we were in regular communications with the Department at the time seeking advice and we may have done so on this policy.

20 Did you speak with any of the other Councillors, any of your fellow Councillors other than these four, about the motion in the lead-up?---I believe that I spoke with Councillor Chen and asked her - I've seen correspondence that indicated that it was my intention to speak to Councillor Chen. I cannot recall if I did that but I recall it was my intention to speak to Councillor Chen and ask if she would be a co-signatory on the letter, but I believe that she was travelling and wasn't  
25 subsequently at the Special Council Meeting and wasn't able to sign.

[3.30 pm]

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45

Did you have an opportunity to speak with her in those circumstances, or do you not remember?---I do not recall speaking to her. I do recall that Councillor Green and Councillor Chen had a more friendly relationship and that conversation may have occurred between Councillor Green and Councillor Chen.

5

This correspondence you're talking about, this material you've seen that suggests to you that you had the intention of speaking with Councillor Chen, what is that?---That's the correspondence between Elected Members on the draft of this policy.

10

The Elected Members being all five of the people on this motion?---Yes, and there is a - I recall there being an email that I received from Councillor Green or perhaps that I had sent to Councillor Green, "Can you ask Lily if she'd be willing to sign the letter."

15

Was this correspondence sent on your City of Perth of email?---No, personal email addresses, from recollection.

20

Do you still have that correspondence?---I believe so, yes. I'm happy to provide it, of course.

25

You're able to produce it, if requested?---Of course, yes. I believe it had been provided. I spent many hours trawling through emails to try and provide every single one that I could and it may already been in your possession.

So the only Councillors then that you did speak with are the ones on this motion, you didn't end up speaking with Councillor Chen and you didn't speak to Councillor Adamos?---That's correct.

30

And you didn't speak with the Lord Mayor?---That's correct.

Is there a reason why you didn't speak with the Lord Mayor - - -?---Look - - -

35

If I can finish the question, Mr Harley?---Sure.

40

I pressure eager to give your evidence. Is there a reason you didn't speak with the Lord Mayor given this motion amends policy to do with the CEO and the Acting CEO and the Lord Mayor has probably the closest working relationship with the CEO or the Acting CEO on the Council?---I accept that a functional Council would have done that. I accept in the circumstances that if the relationships had have been strong and professional and based on mutual respect, that would have been the first conversation to have, but it wasn't the circumstances or context in which we were operating.

45

So this is a conversation which you would have had to have initiated, that's fair to say?---Yes.

And is your evidence then, as I understand it, that you didn't have respect for the Lord Mayor and you didn't have a professional relationship with her and didn't want to extend the professional overture to her in respect of this motion?---I would kind of more accurately say that I didn't have a friendly relationship with the Lord Mayor, wasn't interested in speaking to her about the item and there has been - there have been a lot of issues between us over the - - -

Do you think if you had spoken to her, she would have supported the motion?---No.

Is that a view you held at the time?---Yes.

And did you not speak with her for that reason as well?---Yes. I assumed, without speaking to her, that she would have opposed the move.

Do you notwithstanding that, that you ought to have spoken with her?---Yes.

In her role as a Lord Mayor?---Yes.

When you were having this meeting and these discussions with these Councillors, did you tell the Councillors, those Councillors, that Mr Mianich had filed or lodged complaints about the Local Government Standards Panel about you?---Certainly I'd already spoken with Councillors Green and Limnios about that.

Councillor Green had a complaint lodged against her, that's right?---That's correct, yes.

And Mr Limnios had also received a - - -?---A letter.

- - - a letter, hadn't he?---That's correct.

What about Councillor Barton and Councillor Hasluck?---Councillors Barton and Hasluck, I do not recall speaking to them about it. They were, as I've said in the past, you know, fresh off the boat. They were brand new Councillors, really hadn't had the opportunity to - I guess they hadn't been through the same events that we had, so I believe that the conversation was between Councillors Limnios, Green and myself and not including Councillors Barton and Hasluck, but I cannot recall with 100 per cent certainty if I didn't speak to them.

Why is the fact that they'd only been there a short period of time relevant to whether or not you should disclose the fact that Mr Mianich making a complaint about you, when you were engaging them in a conversation about amending a motion that would affect Mr Mianich?---Because they were very firmly of the view that the policy needed to be amended and in relation to the complaint made against me by Mr Mianich, it's a political environment in which we are operating, and so you want to keep information that may be detrimental to yourself held closely.

5 Do you think, Mr Harley, that that information would have been quite interesting and important to Councillors Barton and Hasluck when they were considering this motion that will effectively have an effect on Mr Mianich?---I do not accept that to be the case, given Councillor Hasluck's evidence that I'd heard, given my understanding and conversations with them. We were in a situation where we needed an Acting CEO. I don't accept that their votes would have been any different.

10 You didn't hear all of Councillor Hasluck's evidence, did you?---No, I heard part and was briefed on other parts.

15 When I asked him about those complaints, I can tell you he was quite shocked to hear about those complaints and said the first he heard about them was yesterday?---Yes, by - - -

20 Let me finish the question - and he said that had he known at the time, he wouldn't have had anything to do with this motion. Knowing that, does that change your view about whether or not you think it was appropriate to not tell Councillor Hasluck in particular about that complaint?---I do not accept Councillor Hasluck's evidence as being correct.

25 COMMISSIONER: I'm not asking you to accept it as correct. Counsel wants you to answer his question, would you please answer his question?---And the answer to the question is, I don't believe that Councillor Hasluck would have acted any differently had he known that information at the time.

30 MR BEETHAM: Do you think you ought to have told Councillor Hasluck when he's considering joining you in a motion of this type, that would have an impact on Mr Mianich, do you think you ought to have disclosed to him that Mr Mianich, just two days earlier, complained about you to the Local Government Standards Panel?---No, I don't believe that information should have necessarily been disclosed to other Elected Members as it was a confidential complaint, later thrown out.

35 Can you understand how, from an outsider's point of view, the timing of this motion following the complaint made about you and Councillor Green to the Local Government Standards Panel, can suggest or might suggest that you took this step in response to what Mr Mianich did?---I can accept that that is an opinion that people might now form.

40 Is it the case that you simply didn't tell Councillor Hasluck and Councillor Barton about the complaint, not because of this concern over confidentiality but because you were concerned they wouldn't support your motion?---No, absolutely not.

45 That didn't come into it at all?---Absolutely not.

So you're strongly of the view that had you told them, they still would have gone ahead with this?---Absolutely.

5 Because of the views they held about Mr Mianich, is that right?---And the views that they held about Ms Battista and other Elected Members.

Do you think they would have wanted some more information about those complaints?---They may have.

10 They may have wanted to speak to Mr Mianich perhaps?---They might have.

But you don't think it would have affected their view at all on this motion?---Not at all, don't accept that.

15 And you don't think that you ought to have disclosed it to them?---No.

COMMISSIONER: Mr Harley, I want you to think about this: if you had told Councillors Harley and Barton about the complaint that had been made against you, do you think that would have given them an opportunity to consider what was  
20 motivating you with this motion?---Yes.

For that reason, did you think it was then fair to tell them about the complaint, to give them that opportunity?---No, because - no, Commissioner, I do not. You don't go around disclosing confidential matters to all and sundry, in fairness to  
25 them, to be able to make views one way or the other. The details of the complaint I believe, actually, had I sat down with those Elected Members and explained to them the circumstances and the details of the complaint, they would have been more likely to have supported the motion. So it was not at all out of fear of them not supporting the motion, given that, in my view, the complaints were vexatious  
30 and were later thrown out.

I understand that's your view. Do you not think that you could have disclosed that there was a complaint against you and give them an opportunity to consider that?---Yes.  
35

Do you not think you could have disclosed to them that there was a complaint against you by Mr Mianich and give them an opportunity to consider that?---Yes.

40 But you didn't?---That's correct, I didn't.

And do you think it would have been fairer to them had you told them that information?---Yes.

45 Mr Beetham.

MR BEETHAM: Was there in fact any connection between the complaints Mr Mianich had lodged and your desire for this motion to be put to Council?---I

thought about this. The way that Mr Mianich acted as the Acting CEO - - -

Sorry, can I interrupt you?---Yes.

5 When you say you've thought about this, recently or at the time?---Today, when my lawyers briefed me on evidence that had been given.

Did you think about it at the time?---Could you, sorry, re-ask the initial question?

10 Was there in fact any connection between what Mr Mianich did, making the complaints about you and Councillor Green, and you putting up this motion?---Yes, but there's a lot more to it.

15 So there was a connection between those two things?---There was a connection but there's a lot more to it.

And that "a lot more to it" is that what you've told us about, your concerns about Mr Mianich and his being an effective Acting CEO?---Yes, it's in relation to that.

20 So is it fair then that this motion was motivated or was connected to those concerns about you had about Mr Mianich's capacity?---There were many reasons that we moved in this way and one of the reasons was my assessment of his professionalism in handling matters of complaint.

25 Is that because you formed the view personally of the complaint about you as vexatious?---That and the other complaints that had been made, as well as my prior experience, having had two previous complaints made and thrown out about me, yes. It was my view that Mr Mileham was sitting at home on stress leave and instructing - - -

30 Sorry, I'm asking you about Mr Mianich?---Yes, and that he was instructing Mr Mianich to act in certain ways that would damage certain Councillors.

35 Did you have any evidence for that at all?---No, it was my assumption at the time. It was my belief.

Did you ask Mr Mianich?---Whether or not he was being instructed by the CEO?

40 Yes?---We were - yes, and were advised that Mr Mianich was in conversation with the CEO. I didn't ask Mr Mianich if the complaint that had been made against me and subsequently thrown out was at the CEO's behest. I didn't ask him that specific question but in response to the complaint when I was notified, I asked to meet with Mr Mianich to discuss it. I asked that the matter be dealt with via mediation rather than by complaint. I questioned the political timing of it in the  
45 correspondence, which you will have, and Mr Mianich did not meet with me at all. So I formed a view that he was acting unprofessionally in the role.

Based on the fact that he wouldn't meet with you?---Based on that fact and many others, yes.

5 How did you form the view that he was being instructed by Mr Mileham while Mr Mileham was on stress leave?---I was aware that he was in communication with Mr Mileham because Mr Mianich had informed me that he was.

10 Yes. Did you inform you that he was taking instruction from Mr Mileham on the conduct of the day to day business of the City?---I was aware that he was in conversation with Mr Mileham, I wasn't sure about the - whether or not he was being instructed on the day to day operations of the City.

15 Why would it matter if he was?---If someone's on stress leave, are they meant to be running the City?

20 Why would it bother you? What's it matter to you that the Acting CEO is talking about the business of the City with the CEO?---I had a view that the CEO's stress leave could have been potentially disingenuous and designed to cause damage to the Council and that Mr Mianich had been appointed to carry out the duties of the CEO at the time.

25 Why did you think that? Why did you think that the stress leave was the disingenuous and designed to damage the Council?---It was - I guess it was interesting political timing and - - -

30 What do you mean by that?---It was at a time when the Council majority had changed and we were making moves to amend Council Policy, we were trying to change the strategic direction of the City.

35 Isn't it the fact that Council majority had changed back in October when the election had happened?---Yes. You've got a Christmas break, there's only one meeting a month so, you know, the first opportunity really when we were able, as a new democratic majority to change the strategic direction of the City, and very soon after the CEO goes on stress leave and then so do a number of others

[3.45 pm]

40 But other than that timing, is there anything else that gave rise to your concern that this was a disingenuous stress leave?---I had, you know - - -

Did you have a medical background - - -?---No, absolutely.

45 - - - that you could diagnose this?---No, but we were as Council in the position of employer.

Yes. I don't understand that as a response to the question?---So it was, while we don't have medical training, as an employer, we were thinking about and

contemplating the actions of our one employee and it was in that context that I was having these thoughts.

5 Did Mr Mileham give any other indication to you while he was the CEO that that's the kind of thing that he would do, go off on stress leave to damage the Council?---I had formed a view that he had been politically - - -

10 Mr Harley, I'm not asking about whether you formed - - -?---I'm answering the question.

15 - - - a view, I'm asking you if he'd done anything?---There were - yes. So I saw him, for example, in the handling of the Grand Central Hotel not intervene in a way that I thought was appropriate to guide the Administration and the Council. It formed my view that he was politically or otherwise aligned to the Lord Mayor and unhappy about the new Council majority and the strategic direction that we were trying to take the City.

20 Based on that, and the timing of Mr Mileham taking leave, you reached the view, which is a view you were pretty firm about, that he was disingenuous and the purpose of his leave was to damage the Council?---I didn't have a firm view, I had a suspicion that it was disingenuous and I had a suspicion that it was the Administration's preference to, as I said at the time, blow up the joint and prefer to have us suspended than to have to deal with a new Council majority.

25 Do you include within your description of the Administration blowing up the joint, Ms Battista?---I believe - no. I believe that she was professional, willing to deal professionally with all Elected Members.

30 Did you include Mr Crosetta?---No.

35 So when you say the Administration wanted to blow up the joint, who are you really talking about?---Yes, I'm referring to Mr Mileham, Ms Moore in particular, and I hadn't formed a view about Ms Barrenger, but I had formed a view that Mr Mileham - - -

And Mr Mianich?---And Mr Mianich I felt had loyalty to Mr Mileham.

40 But of those administrative staff, the Executive, there are only two you'd formed a view wanted to blow up the joint, the two of them?---Sorry, I will clarify, Mr Mianich, Mr Mileham and Ms Moore, I can reasonably say that I had formed the view that they were unhappy at the situation and wanted to blow up the joint, as I'd said.

45 How did you form the view that Ms Moore was not happy with the majority and wanted to blow up the joint?---She'd been quite difficult in dealing with the new majority but in the past when members of signatories of this letter had proposed different ideas, she had been very difficult and unwilling to really work

collaboratively with us towards the desired outcome. She was constantly no and throwing up hurdles in our way.

5 And was it your view that her reasons for saying no and the hurdles as you described them, were not legitimate?---Yes. It was my view that she was exaggerating the difficulties that would come from implementing legitimate Council decisions.

10 How could you reach that view?---There was an example in relation to a free parking initiative in East Perth where Ms Moore had prepared a briefing, a response to a request by Mr Limnios and myself, I think, and we were looking at putting parking meters and providing first hour free parking, which has subsequently been achieved. The brief that came back was a financial summary of the impact to the City. That included the cost of \$28,000 - in the order of \$28,000  
15 in staff labour for one month trial. That would have equated to something like two full-time staff members, rangers, being on the beat full-time, Monday to Friday, 9-5, on a four to five block section of Royal Street.

20 And did you take the view that that had been put in there deliberately to make things difficult?---Correct.

You didn't think that was just an error or there was some other reason for it?---Didn't think it was an error, thought that it was a deliberate attempt to try and make it seem all too hard to implement the democratic will - - -

25 Did you ask about it?---Yes, we confronted Director Moore at the time about it and Director Moore stood by the figures.

30 But nonetheless, you maintained the view that it was a deliberate act by Ms Moore to make things more difficult for you and Mr Limnios?---Yes. I got a sense that the Administration was simply not willing to work collaboratively with Council to achieve the outcomes that we had been elected to achieve.

35 And you got that sense from these types of things?---These types of things, yes.

Is it fair to say then your relationship with Ms Moore wasn't a good one?---Yes - it's not fair to say it wasn't a good one. I didn't have a negative relationship with her. We have not had conflict.

40 Mr Harley, you've just said that you thought she was out to obstruct you and your majority?---That's right.

45 How do you describe that as something other than a negative relationship?---That was the view that I'd formed but I'd not, you know, not acted in any way unprofessionally towards her. We were still on speaking terms, still dealing with each other in relation to a range of City matters but I had concerns about her willingness to work collaboratively with Council.

I'm a little confused by your evidence on this topic, Mr Harley, because you seem to be suggesting that Ms Moore and others were obstructing you and out to blow up the Council, the City, but also you didn't have a bad relationship with Ms Moore and you were professional towards each other. I don't understand how those two things co-exist?---I guess the only way I can answer it is there are a lot of subtleties in the way that you experience day to day relationships with people over many months.

5  
10 There's not subtle, is there, about forming a view that these people were out to blow out the Council, the City and Mr Mileham's ultimate goal was to be disingenuous in doing that?---That occurred at the very end of the period. Throughout the vast majority of the time that I was dealing with Ms Moore, we had a professional relationship. So these views - - -

15  
When did she become obstructionist? When did your relationship change?---I was unhappy at the way that she dealt with the matter of parking. I can't recall the exact month in which it was dealt with but that will be recorded in news articles at the time.

20  
But it's about that time, is it, when that parking - - -?---It's around that time and then subsequent to that, the Council majority changed. A group of Councillors were elected who really wanted to push on a whole range of different initiatives and we felt as if the Administration was not particularly keen on heading in that direction.

25  
Did you ever give any consideration to the reasons why the Administration weren't keen?---Yes, all the time, constantly considering why it would be that they weren't keen on particular issues. I think that the Council and the Administration had become much too reliant on parking revenue and was spending much too much on Human Resources and staffing and so didn't want to lose revenue, because that would impact jobs and would impact the budget of the City.

30  
35 And it was your view that those were not legitimate concerns, they were just obstructionist concerns?---I understand that they were legitimate concerns but I had a difference of opinion about whether or not we should continue to have such a high cost parking regime in the City to the detriment of retailers and residents.

40  
I will ask you to comment on this, standing here, that what it sounds like to me, is whenever there was a difference of opinion between you and the Executive, you describe that difference of opinion as them being obstructionist and when you didn't have a difference of opinion, you had a good relationship with them?---I don't accept the characterisation. I'd say it's the role of Council to set the strategic direction of the City and it's the role of the Administration to provide us with advice and to help implement those decisions and I felt as if the Administration was trying to very actively drive the City in a direction that the majority of Council weren't interested in going.

I think it goes further than that, doesn't it? You also thought eventually by February that aspects of the Administration were trying to - - -?---Sabotage the - - -

5 - - - sabotage the organisation?---Sabotage the Council, yes.

And did you think that those people had a particular loyalty to some of the Councillors?---To the Lord Mayor.

10 And why did you think that?---From behaviour that I had seen over a very long period of time.

But you had, I think as I understand your evidence, a different view about Ms Battista's alignment or her ability - - -?---Yes.

15 - - - to get things done?---Not to her alignment but Ms Battista always dealt with us very professionally and collaboratively and was very willing to take on our feedback and to work with us towards common goals and I felt that I had a good working relationship with her. I saw her as a good Director.

20 When the discussions were taking place about who should be blank in the item 2, Ms Battista was a name that came to the fore, that's right?---Yes, that's right.

25 Did you consider anybody else?---I did consider Director Crosetta but because of his lack of Local Government experience, he had worked in the corporate world, and also because Ms Battista had public relations and media experience as well as Local Government experience, having worked with the WA Local Government Association, I formed the view that she was the best person to be Acting in the role during that particular time.

30 That is from 27 February onwards?---Until such a time as the CEO returned.

35 We will come back to Mr Mileham's return date in a moment. Madam Associate, could you bring up the document at 11.0491, please. Is that large enough on the screen, Mr Harley, for you to read?---Yes.

40 Could we just expand it for the benefit of everybody reading it on the screen, please, Madam Associate. Thank you, Madam Associate. Can I just ask you to read that to yourself?---Yes. Yes, I've read it.

So a couple of questions about this email. The first is, this email is an email from your personal or from your Museum of Perth email account to Mr Murphy and Ms Murphy at the Department?---That's right.

45 And it's 11.30 in the morning on Tuesday, the 27th?---Mm hmm.

Is there a reason why this email's not copied to any of the other Councillors who

are interested in this motion?---I think I was acting as an intermediary, so I was just collecting the information and then would relay it to other Councillors.

5 Were you and Ms Green sort of primary drivers behind the motion?---Yes. We had been there longer, we had dealt, I guess, more issues and - - -

10 Sorry, what I mean by that is, was it in a sense the brain child of you and Ms Green and you were the stewards of the motion more than the other three people who signed?---Yes, I'm happy to accept that, yes.

15 Were you then taking something of a point position on the discussions with other stakeholders, including the Department, about the motion for that reason?---Yes, myself and Councillor Green had discussed matters with the Department as well as other external agencies, Public Sector Commission and others. So we couldn't all do it all at the same time. It was just really about sharing the load, I think.

You will see in this email, you will see there's a link towards the bottom and then just above that there's one line and then above that there's a couple of lines?---Yes.

20 Those couple of lines, you ask:

*Are you able to please review the suggested policy link below and confirm for Councillors the proposed policy is consistent with our powers under the Local Government Act.*

25 Do you see that?---Yes.

30 It's a bit of a strange thing to ask, isn't it, after you've put the motion up to Council to consider?---No, because we had already spoken to Ron and Jillian, I think, over the phone.

So why were you asking the question again?---Just to be doubly sure.

35 To be doubly sure?---Yes. It had been our reading that we did have the powers under the Act. It had been my - I think Councillor Green had perhaps received advice to that effect as well and we wanted to double-check, triple or quadruple check, as it may have been at the time.

40 Did you have any concerns that it may have been beyond your powers?---No. The Council appoints the CEO - - -

45 I appreciate how it works, Mr Harley, but I'm just curious as to why you were asking, six hours before the Council meeting on that day?---Yes, we just wanted to try and check with as many people as possible.

You'd checked with these people, on your evidence, already?---I believe that that phone call had already - I believe the conversations with Ron and Jill had been

continuing over a range of matters and I believe that Councillor Green - - -

Can I interrupt you again then - - -?--- - - - had spoken to them about this issue.  
Yes.

5

Your evidence earlier was that you had a phone conversation with them and they told you it was fine, it was within power, and you were just doing this to double-check or triple-check?---I don't believe I said that. I believe I said that I had had a discussion with Ron and Jillian about this matter but I do not - I did not receive any formal correspondence back from them confirming the question.

10

No, but you'd a telephone conversation and they told you that it was within power, that's my understanding of your evidence?---No. Okay, my understanding of the events as they were is that they said they would check

15

[4.00 pm]

COMMISSIONER: That's not your evidence. Your evidence earlier was as it was put to you by Mr Beetham?---Well, sorry, I cannot recall the evidence as it may have been given but I am happy to clarify that.

20

MR BEETHAM: I don't think you should have to recall, Mr Harley, if you have just given me your honest recollection of what actually happened. It shouldn't be difficult?---It's not difficult.

25

So your evidence as I understand it is you spoke to Mr Murphy or Mr and Ms Murphy and they told you it was within power and then you wrote this to double or triple - - -?---This isn't.

30

COMMISSIONER: Mr van Hattem has an objection.

MR van HATTEM: A very brief matter.

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

35

MR van HATTEM: I will perhaps just ask my learned friend.

MR BEETHAM: I'm obliged to my friend. I will move on, sir. Madam Associate, if we could now go to another document?---Okay, sure.

40

What is it, Mr Harley, that you wanted to say?---Just to get to the bottom of the matters at the City, I just wanted to point out the line that one of the reasons why we appointed Annaliese to the role is that we trusted her to deal appropriately with complaints at the City. For example, in a staff survey of the City of Perth staff members, the majority of them submitted survey results to say that they didn't have faith in the complaints handling procedures of the City. Mr Mileham and before him, Mr Stevenson, were both the Complaints Officers at the City. So that is a

45

contemporaneous record of my concerns about whether or not the CEO was dealing with complaints at the City appropriately and didn't feel that he was.

5 Thank you very much for that, Mr Harley. Madam Associate, if we can go forward now to 11.0511.

MS SARACENI: Commissioner, just a question if I may. For those of us who don't know who exactly are Ron and Jill Murphy.

10 COMMISSIONER: That's a fair point.

MR BEETHAM: Can you explain for the benefit of the Inquiry who Mr Ron Murphy is?---Sure. I believe him to be the manager of the governance section of the Local Government section within the now Department of Local Government, Sports and Cultural Industries.

And Ms Jill Murphy?---His colleague.

20 Madam Associate, if we could now go to 11.0511.

COMMISSIONER: Mr van Hattem, please feel free to leave as you wish .

MR van HATTEM: I'm obliged, thank you, Commissioner.

25 MR BEETHAM: If I could just ask you, Madam Associate, to enlarge that email as well, please. If I can just ask you to read that to yourself, Mr Harley?---Yes. Yes.

30 You will see there in the first - I will go back. This is an email from you to Ms Moore, copied to a range of people which include members of the Council and members of the Executive?---All Elected Members and Directors.

And you will see there in the first block paragraph of the email?---Yes.

35 You write that you are "even more strongly of the view that Council has a legal obligation and a duty of care to meet to appoint an Acting CEO"?---Yes.

40 How did you form that view?---Rebecca Moore had, in my view, without any legal authority - - -

Sorry, Mr Harley, I'm asking you where did you form the view that you had a legal obligation to appoint an Acting CEO?---It was my own view based on my own reading of the Act.

45 What part of the Act indicated to you that you had a legal obligation the appoint a CEO, as opposed to a legal power to do so?---Perhaps choice of words was not legally accurate but we didn't have a CEO, nor an Acting CEO at this point. We

didn't have anyone acting in the role.

5 How did you form the view that you had a duty of care to appoint an Acting  
CEO?---I thought it was grossly inappropriate for a Council to exist without an  
Acting CEO.

10 And you thought that might compromise some sort of duty of care you owed to - -  
-?---Absolutely. The CEO is the Complaints Officer of the City and if there's no  
person in that role, if a bomb goes off in the City, if there are major issues to deal  
with, keeping in mind - - -

15 If a bomb went off, they could exercise the Crisis Management Plan, couldn't  
they?---I don't think it would have been necessary given, if there was a CEO or an  
Acting CEO in place.

But if there wasn't, there's a policy and procedure in place, isn't there? We know  
about that one, the Crisis Management Plan?---Yes. It's a pretty unconventional  
use of policy.

20 Enacting the Crisis Management Plan when a bomb goes off?---Enacting the Crisis  
Management Plan in this circumstance.

25 That's not what I'm asking you about, Mr Harley?---Sure. If a bomb had have gone  
off - - -

I'm trying to understand why you've written there that you have a duty of care to  
appoint an Acting CEO, that's what I'm trying to understand?---Because I was of  
the view that it was grossly inappropriate to leave the City without an Acting CEO.

30 And you thought that would compromise a duty of care that you considered that  
Council owed?---To all staff and to the City more broadly.

35 Then in the next paragraph down, you talk about "leaving the City without an  
Acting CEO for an unacceptable period." Do I understand that to be a reference  
to your earlier evidence where you at that stage thought Mr Mileham would be  
away for an indefinite period of time?---As I'd been advised by Mr Mianich,  
correct.

40 Madam Associate, if we could now go forward to 11.0517. If you could enlarge  
that page for me too, please, Madam Associate?---Yes.

45 Scroll towards the bottom, please, Madam Associate. You will see there, just  
work backwards through the email chain, Mr Harley, you will see an email from  
Ms Green?---M'mm.

With a link?---To the continuity framework, yes.

Do you have any recollection of receiving that email?---That email? Yes - do I have a recollection? I accept that I did, I don't - - -

5 At some point, you don't remember doing it though? You don't remember receiving it?---I have to say I don't recall receiving the email.

It's not a trick question, it's just one way or the other?---Sometimes trick questions are thrown at witnesses, so I don't recall receiving the email.

10 And the email above that you will see is from Mr Linnios writing, "This is very desperate in my view"?---Yes.

Do you remember receiving that email?---No.

15 Do you remember the next email in the chain, Madam Associate, if you could scroll up, which is an email from you?---Yes.

Just take a moment to read that?---Yes.

20 If we go in reverse order, Mr Linnios' email where he said, "This is very desperate into my view"?---Mm hmm.

Do you understand that to be a reference to enactment of the Crisis Management Plan by the City?---Yes, that was the act that he was saying was desperate, yes.

25 At that time, on the 27th, is that a view that you shared, that it was desperate act?---Yes.

Can you explain why?---Yes. I believe that they were trying to protect themselves.

30 From?---From Annaliese being acting in the role of CEO and being the Complaints Officer.

Why would they need to protect themselves from that?---Because I believe that there were complaints about those Directors, Director Moore, for example, her probation had been extended because of behavioural issues. We had heard feedback that people within her Department were quite unhappy with her behaviour and so it was my view that it was likely that there were complaints about Director Moore and I - you know, yes. So I thought - - -

40 Did you think that only Ms Battista would be willing to deal with those complaints?---That's correct.

45 Is that what you're saying?---I believe that Ms Battista or Mr Crosetta, but because of his lack of Local Government experience, would be willing to deal with those complaints appropriately and that I didn't have any faith that Director Moore would do so.

I take it you had no faith that Director Barrenger would do so either?---I didn't have a strong view about that. I didn't have a strong view, no.

5 Does this tie back to the evidence you gave a little while ago about this survey that was done?---Yes.

And the staff's views that the Complaints Officers weren't great?---No, the majority of staff, in responding to a confidential survey, said that they did not - I believe that the exact question was, did not - either it was did not have faith in or perhaps did not understand the complaints - I think there were two questions in the survey, you may have a copy of it - did not - - -

10 They had had difficulties with the complaints procedure, is that right?---Yes, that both - a majority of staff members both didn't properly understand the process and also didn't have faith that their complaints would be handled appropriately.

And did you have the view - I'm just trying to piece the puzzle together?---Yes.

15 Did you have the view that Ms Battista would be able to improve that area of the City?---Yes, I believed that Ms Battista would act to deal appropriately with all complaints that had been made.

And other than your general impression of Ms Battista's abilities and professionalism, did you have a reason to think that, a particular concrete reason?---A particular concrete reason? She had expressed dissatisfaction to me about the way that complaints had been dealt with at the City, so both complaints about her personally, complaints that she had made and complaints that staff had made to her that had been referred to the CEO. So given that she shared that concern, I had a view that she would change things for the better.

20 During her period as Acting CEO?---During her period, yes, as Acting CEO. We weren't sure how long that would last.

25 In your email where you're writing back to Councillors Limnios, Green, Hasluck and Barton, you write:

30 *Steve/Lexi, if Rebecca is willing to take this extraordinary step despite the clear will of Councillors, that gives you some indication of how she would function in the Acting CEO role.*

35 ?---Yes.

40 Is that something that you had discussed with Councillors Hasluck and Barton? Is that why you were directing that line to them in particular?---I had the view at the time that Jemma and James were already on the same page because we had had similar experience, whereas Steve and Lexi were new, so I wanted to reiterate, I

guess to them as newer Councillors that that was my assessment of what had happened.

5 And that, based on your assessment of what had happened, it was reflective of Ms Moore's capacity in an Acting CEO role?---Well, yes. Yes, that's right. She had implemented a Crisis Management Plan for, you know, flood, fire and terrorism in a situation in which a democratically elected Council had scheduled a Council meeting to amend a Council Policy to appoint an Acting CEO.

10 That's not quite right, is it, that Ms Moore did that, it was a decision taken by a group of Executive leadership members?---We are not sure. I mean, I've read evidence to say that one of the Acting Directors was deliberately excused from that meeting and at the time we weren't told - - -

15 I will bring you back to the question?---Yes.

It's the case, isn't it, that it wasn't simply Ms Moore out on a frolic, to be fair to Ms Moore, there were other people involved in that decision to enact the Crisis Management Plan?---I'm not sure whether or not - I'm not sure whether or not the plan was made unilaterally or as part of a group and whether or not - - -

20 So you're not able to say, as you have done in evidence a moment ago, that Ms Moore had enacted the Crisis Management Plan, you don't know?---The Crisis Management Plan as I understand it, is something that is enacted by the Director.

25 But you've just given evidence just a moment that you're not sure how it was enacted, who did it?---That's right, I'm not certain.

30 You're not able to say that it was just Ms Moore on her own?---Yes. That's right, I can't say that it was Ms Moore unilaterally, it may have been in consultation with others and it may have been that it was a unanimous decision of the ELG.

35 So when you say Ms Moore enacted the Crisis Management Plan, is what you mean is she was involved in it or - - -?---She was involved in it and if you like, assumed the powers of an Acting CEO without any consultation with Council.

40 Again, when you say she assumed those powers, is it more accurate to say - would you agree with me it's more accurate to say they were conferred on her by the enactment of the Crisis Management Plan?---Mm hmm.

Rather than unilaterally assuming a role?---I'm not sure of how the decision was made.

45 Again, you can't say that she unilaterally assumed these powers?---I can't say and I can't say that that wasn't what happened either.

You don't know one way or the other?---I'm not sure one way or the other.

Sir, I note the time. I'm not sure how late you were minded to sit this afternoon, given the early start this morning.

5 COMMISSIONER: How much longer do you think you might be with Mr Harley?

MR BEETHAM: Possibly about an hour, sir, maybe a little bit less.

10 COMMISSIONER: How are we travelling for time generally with the schedule for tomorrow?

MR BEETHAM: Better than anticipated if you'd asked me this morning, sir. So I think if Mr Harley was to complete his evidence in the morning, we would still be able to maintain the schedule.

COMMISSIONER: What time would you prefer to start in the morning?

MR BEETHAM: If it's of no inconvenience to everybody else, 9.30 would probably be prudent but if we start at 10, I'm still confident we will get through the material.

COMMISSIONER: I'm going to take you at your word and we will start at 10. Mr Harley, I'm sorry to say you will have to come back tomorrow?---That's okay.

25 For 10 am?---My fifth day off work, yes, that's fine.

I'm sorry?---It's my fifth day of annual leave off work, but that's okay. We have to front up, participate.

30 Thank you. You're right about that. I will adjourn the Inquiry to 10 am tomorrow morning.

**WITNESS WITHDREW**

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**AT 4.16 PM THE MATTER WAS ADJOURNED  
UNTIL THURSDAY, 19 SEPTEMBER 2019**

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