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INQUIRY INTO THE CITY OF PERTH

PUBLIC HEARING - DAY 95

TUESDAY, 27 AUGUST 2019

INQUIRY PANEL:

COMMISSIONER ANTHONY (TONY) POWER

COUNSEL ASSISTING:

MR PHILIP URQUHART

MS KATE ELLSON

COUNSEL APPEARING:

**MR KEITH THOMAS, with MS CHRISTINE OREO
(Ms Lily CHEN)**

MR DARREN RENTON (Mr Gary STEVENSON)

MR GERALD YIN (Mr Yit Kee YONG)

.27/08/2019

HEARING COMMENCED AT 10.27 AM:

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

10 Before we go any further, I want to apologise for the delayed commencement to this morning's public hearing. The Inquiry had a private application which needed to be dealt with as a matter of urgency. That was the reason for the delay. Mr Urquhart, do you call your next witness?

15 MR URQUHART: Thank you, Commissioner, I do. That is Lily Chen. Ms Chen is in the back of the hearing room.

20 COMMISSIONER: Thank you. Ms Chen, please come forward and take a seat in the witness box to my left. Mr Thomas?

MR THOMAS: Yes, may it please you, sir, I continue to appear for Ms Chen, along with Ms Oreo.

25 COMMISSIONER: Thank you, Mr Thomas. Mr Renton.

MR RENTON: Commissioner, if it please you, may I continue to represent Mr Stevenson?

30 COMMISSIONER: Thank you, Mr Renton.

MR RENTON: Thank you.

35 COMMISSIONER: Ms Chen, do you wish to take the oath or make an affirmation?

MS CHEN: Affirmation, Commissioner.

COMMISSIONER: Thank you, Madam Associate.

40 **MS Lily CHEN, affirmed:**

COMMISSIONER: Thank you. Mr Urquhart, are you ready to proceed?

45 MR URQUHART: Yes, I am, thank you, Commissioner.

EXAMINATION-IN-CHIEF BY MR URQUHART

Ms Chen, I have just a handful of questions to ask you before other Counsel Assisting, Ms Ellson, questions you. I just want to ask you something about the evidence you gave two weeks ago today in that very same chair?---Mm hmm.

5 This is in relation to the commission payments that Devwest made to you over the course of a number of years between 2013 and 2017, okay?---Yes

[10.30 am]

10 This, sir, appears at the bottom of page 65 of the transcript from 13 August 2019. Ms Chen, I asked you this question:

Did you tell the accountant about these commissions that you were receiving from Devwest?---Yes.

15

Over the page, sir, I asked:

Are you sure about that?---Yes.

20

So these payments should be in your tax returns?---Should be.

Ms Chen, those answers weren't correct, were they?---Correct in the sense, I mentioned to him but not the figure.

25 Ms Chen, you only mentioned those commission payments to him later that day, on 13 August after you had given your evidence, is that not right?---That is second time. The first time is during those years.

30 Ms Chen, I suggest to you that is simply not correct, is it? Be careful with your answers, please?---Yes.

Be very, very careful?---Yes.

35 You did not mention those payments to him at any time before two weeks ago, that's correct, isn't it?---No.

Ms Chen, do you remember what you said to your accountant two weeks ago, after I had questioned you about the Devwest payments?---I remember. I told him.

40 Do you remember talking to him?---Yes.

After you completed evidence on that day?---Yes.

45 Am I right in saying that what you told him on that occasion was the truth?---Yes.

All right, Ms Chen?---Before that - - -

We have heard from your accountant, Henry Chen?---Yes.

5 In the meantime. So I'm going to say to you again, the first time you mentioned this to your accountant about these commission payments was only two weeks ago, isn't that correct?---Not correct.

Ms Chen, so you're saying to us that you mentioned these payments from Devwest to him when?---First time in 2013.

10 What did you say to him?---I said, "I got a commission payment from Devwest" because he knew Devwest as well. Then the person who invested for the first investor, he knew as well, but he didn't ask me how much.

15 Why were you telling him then?---Yes, I didn't.

Why were you telling him that you received these commission payments from Devwest?---I had told him in 2013.

20 And I want to know why you were telling him?---I told him for tax purpose.

Okay, obviously then you told him the amount?---I did not tell him amount because he, ever year, only ask me before he was preparing the tax returns.

25 Why didn't you tell him the amounts you were receiving?---I didn't really check it.

30 Why didn't you? Ms Chen, if you're telling him that you're disclosing these commission payments to him so he could fill that out in your tax return, why didn't you tell him the amount?---When I told him about the City of Perth payments, sitting fees, also I told him, he only did some of them, not all of them, so they are the same. I told him as well.

The question's not going to go away. Do I have to ask this question of you again?---I didn't tell him.

35 Yes, and I want to know why. I just want an answer to that question and not what's called a non-responsive or evasive answer to the question, something that I've been imploring witnesses, particularly you, to do now over and over and over again. Why did you not tell him the amount?---No reason.

40 There has to be a reason if in fact your evidence is the truth about telling him, because the reason you have said that you told him about these payments was so that he could fill this out on your tax return. So therefore you would have to have given him the amount?---I was waiting for him, before he was preparing my tax returns.

45 Waiting for him to do what?---To ask all the questions.

No, he's asked you the question, obviously. You've told him your sources of income. How on earth could he find out what amounts you were earning from Devwest if you didn't tell him?---Yes, he could not know.

5 Ms Chen, do you know what the expression, digging a hole for yourself means? Have you heard that expression before?---Phrase meaning, yes.

You do know what that means?---Yes.

10 You're digging a very deep hole for yourself now, aren't you?---No.

You're not? Would you now like to tell us the truth, please?---I told him I getting commission, case by case basis, not the amount.

15 Ms Chen, what did you tell him two weeks ago? I'm not talking about what you reckon you told him six years ago, what did you tell him two weeks ago? Remember, we have got your accountant's version of events?---I told him they are commissions, maybe not in - putting in to the tax returns and then, please make sure and extra tax will be paid.

20 Do you remember him asking you why you hadn't told him about these commission payments, do you remember him asking you that?---He didn't.

It's a logical question for him to ask, isn't it?---He didn't ask.

25 It's a logical question for him to ask, isn't it?---It is, but he didn't.

30 And he did ask you that and do you know what your answer was? "I forgotten." He asked you again, "Why didn't you tell me early" and you said, "I forgot to tell you so I need to make amendment." That's what you said to him, didn't you, Ms Chen? Come on?---He didn't ask me why. He just said yes, we will do for you.

35 Ms Chen - page 67 now, sir, from Ms Chen's evidence two weeks ago.

COMMISSIONER: Thank you.

MR URQUHART: I asked you this at line 30:

40 *Have you always disclosed to them all your sources of income?*

"Them" being your accountants. Your response was:

45 *Maybe some time miss some.*

So you've missed the Devwest ones?---Some of them they knew, some of them they did not.

What did you mean by that?---Some investors, these my accountant's friends so they told him, even before I told him.

5 Some of your investors are your accountant's friends and they have told him?---Earlier than I told him.

Told him what?---And they would have tell him, "Lily referred me to Devwest to invest into this amount" and then he knew there's a commission paid.

10

How?---Because once he ask me, he said, "Oh, Mr Blah, blah, blah" and then he told me "and you referred him to Devwest for investment", and I said, "Yes." Then he said, "You know, be careful because some of the money may not come back." I said, "Look, I myself put money as well." This is our conversation over the phone in 2013.

15

2013?---Yes. One of them is very close to him to date.

Ms Chen, you're telling us that you disclosed to your accountant that you were receiving commissions from Devwest?---Yes, in 2013.

20

In 2013, and he never, and you never provided him with the invoices - - -?---No.

- - - that you prepared, or the payment, evidence of payments that Devwest made to you, is that right?---Yes.

25

And he never asked for them?---No.

So therefore, those payments wouldn't be on your tax returns, would they?---No.

30

You checked your tax returns before they were sent off to the ATO, didn't you?---I trusted him and each time just sign.

You checked those tax returns before you sent them off, didn't you?---No.

35

No?---Only ask me, which page I need to sign and I only signed that page and only that page is scanned and sent back to him.

But you would know these Devwest payments are not on there because you never told your accountant what amounts you had got from Devwest?---That's correct.

40

So whether you checked or not, those Devwest payments wouldn't be there, would they?---Yes.

So you didn't disclose the payments to the Australian Taxation Office, did you?---No.

45

Why was that?---The accountant gave reason.

No, why was that?---Really forgot. It's not - if I remembered, I always paid because always I rely on the professionals.

5

Yes, but professionals can't put down figures of income you've earned if you don't give them those figures?---That's correct.

So whose fault was it?---My fault.

10

So you see, if your accountant said that you never said anything to him when he was completing your tax returns about you earning commission payments, he would be completely wrong, would he?---Question again, please.

15

If Mr Chen's version is that you never told him anything about receiving commission payments during the completion of your tax returns, he would be wrong, would he?---Yes.

And you're right?---At least in 2013.

20

What about all the other years after that?---Yes, I didn't tell him.

Why not?---I said to you, I forgot.

25

You couldn't have forgotten payments of over \$300,000 over a four year period, Ms Chen, surely?---Five years, paid to both my husband and I.

30

You received your first payment on 2 April 2013, you received your final payment insofar as the Inquiry can make out, on 27 April 2017. Us lawyers are never really good at maths, Ms Chen, but that works out to, by my calculations, be four years and 25 days, \$307,200 in commission payments that you're telling us you simply forgot about?---Is not regular, it's like once you've won, case by case. It's not regular income

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[10.45 am]

It's a hell of a lot of income though, isn't it?---My calculations during the five years and paid to both of us.

40

Sorry?---During the five years duration and paid to both of us, my husband and myself.

Paid what, sorry?---Paid to my husband and myself.

45

These commission payments were paid to you?---To both of us.

No, to you?---It is in joint account.

You provided the invoices in your name and the money was paid into your account, your own account, on all but one occasion?---Always the joint account.

5 This is your Bankwest Hero transaction account. We went through all these details two weeks ago, Ms Chen. There was one payment of \$50,000 that went to your account in China, okay?---That is not my bank account.

Your evidence two weeks ago was that it was, all right?---It's another person who
10 introduce the investor to me.

Then there was another payment made on 2 April, you're right, to your Westpac savings account, yourself and your husband, but all the rest, over \$160,000, was all paid - it doesn't really matter what accounts they were paid into, this was your
15 income, wasn't it, because we have gone through all this. You had that agreement with Devwest in your name that you signed, that you were to receive a 5 per cent commission on any investments that you were able to get for Devwest property developments?---All the Commissions paid into joint bank account.

20 But - - -?---With Westpac.

- - - they were your commissions?---Yes, correct.

So they had to be disclosed on your tax returns?---Half of them.

25 Half of them?---Mm hmm.

What do you mean half of them?---Because half of them is my husband one.

30 How?---Because is joint names.

No, the agreement you made with Devwest was in your name and your name only?---That is on his behalf as well.

35 No, but it's your agreement. Did he go and - Ms Chen, did he get any of these investors to invest in Devwest or was it just you?---Is my relationship.

It was your relationship, you were the one who got these investors to invest in Devwest property developments, didn't you?---That's correct.

40 It had nothing to do with your husband?---But the commissions paid into Westpac joint bank account.

45 So what? These commissions were earned by you and you were required to declare them on your tax returns?---That's correct.

And you did not do that?---Yes.

There is no disclosure in any of your annual returns that you had to complete for the City of Perth, that you completed in 2013, 14, 15, 16 or 17 that you were receiving income from Devwest?---No, I didn't.

5

And you were supposed to do that, weren't you?---Yes.

No disclosure to the Inquiry about these payments from Devwest when it compelled you to produce all sources of income, including commission payments, for the financial years 2015/16, 16/17, isn't that right?---That's correct.

10

Now the Inquiry knows you did not disclose these commission payments in any of your tax returns for the relevant period. Four tax returns, no mention of any commission payments, okay?---Correct.

15

The question I'm going to ask you again, Ms Chen is why, why the cover-up?---Just simply forgot.

What, you forgot on numerous occasions, did you?---Because we had a fight over my investments with them.

20

You gave that as an explanation last time around. It still doesn't make any sense because you had a fight with Devwest over the loan or investment that you gave them, that's not relevant to your failure to disclose this income to no less than three authorities?---Part of the - - -

25

Why?---Part of the reasons.

That's got nothing to do with it. When you're completing your annual returns to the City of Perth over all those years, when you signed off those tax returns all those years, then in March of this year when you were compelled - compelled to disclose all your sources of income above \$500 for those two financial years, 15/16, 16/17 save and except your City of Perth payments, your salaries you receive as your occupation, you didn't disclose it then?---Not intentionally.

30

You have, surely. So why the cover-up, why the concealment?---Not cover up. You remind me, then I remember Devwest.

35

No, Ms Chen. You, for the first time, mentioned these payments you were getting from Devwest during your evidence. I didn't drop you a hint at all, I just asked you. We can check the transcript, it came from your mouth and only after I told you, the Inquiry knows the truth. So how about you tell us the truth as to why you constantly concealed these payments from authorities that you were compelled to disclose them?---Not intentionally.

40

I want to know why?---No reason.

Why?---No reason.

There must be a reason, Ms Chen?---Because I really forgot.

5 There must be a reason. You can't forget payments of over \$300,000?---Really cannot remember. Just was simple, really forgot, otherwise I wouldn't do this.

COMMISSIONER: Ms Chen, in fairness to you, I have to say to you that I am having some difficulty with the answer that you, as a lawyer, getting a notice from this Inquiry, unintentionally did not disclose to this Inquiry that you had received those commission payments. In fairness to you, I have to say I find that very difficult to believe?---I understand, Commissioner. Is genuine from bottom of my heart and I knew the Inquiry is very important. I compelled to provide, so I was really a little bit confused. I almost put down my, you know, position, occupation's income as well but that one is excluded, and I really - if I knew, I would all disclose because anyway, will get it so why I should conceal? It's really not intentionally. You from the answer, sometimes even my age, the counsel got it wrong, I would correct him, so I'm genuinely from the bottom of my heart assisting the Inquiry.

20 As a lawyer, getting a notice of that kind from the Inquiry, I would have thought that the first thing that would come to your mind would be the need to disclose all of the payments that you have received above \$500?---Yes, correct.

25 So I just don't understand why you did not do that with the commission payments?---Can I just explain to you, I said to you in the past, from March - even more, from December 2018 backwards, it was my hardest time in my practice because I lost all the staff. Myself I work seven days and I work overtime every night, 8 or 9 o'clock back at home. I didn't really have time to think about it carefully. Certainly some information missed, especially Devwest and I thought of it during the private hearing and until the public hearing, and until he mentioned it to me, first private hearing I recall, he said, you build a house, have you invest, I immediately thought about my personal building the house, once in Brighton and a few in Glendalough. I never thought about it. Devwest developments is mine, so I still didn't go there until public hearing and once - I don't know he's talking about something and it refreshed my memory so suddenly I remember, oh yes, Devwest. Devwest is a very public, my relationship, working relationship with them in the community, in the 500 Club in the, you know, the Chinese community. Everyone knew and I wouldn't hide because there's no way to hide, you know. That's why I said to you, not intentionally but certainly when yourself extremely - you doing so many things at once and there's nothing you can do good - well. This is my lesson to learn. I didn't intentionally hide anything. If I wanted to be in the community, to be an example for others to follow, that's why when the Inquiry told me, I immediately instruct my accountant, could you please - you know, those extra taxes, please quickly prepare and then to ATO, I will pay. So is not intentionally hiding. I saw the City of Perth brought down. The Inquiry is the factions between Councillors and interference into the Executive's decisions, operational matters of

the Council brought down, not myself didn't disclose my commissions brought the City down. Brought the City - I was good Councillor, you can ask the Senior Executives, all the witnesses. What I did, what I performed at the City of Perth during my years there, I did my best and then no my family members agreed for me to go to public life because I'm too truthful. That's what they said to me.
5 Honest, over-trust people, that's why myself investment until now, I haven't got back. I just help people. I didn't get anything. That's why when they paid during past four years or four and 25 days, I always believe that once is offset, you know, the money they owing me but then my accountant explained to me, "This is two
10 separate. Your company investment and the loan loss is your company's. Your personal gain, you have to disclose." So as lawyer, I'm not a tax expert and I really need professional help. So that's why after the Inquiry that day, I immediately instructed my accountant, "Could you please, quick." I said, "How could - I told you, I'm a City of Perth Councillor, I also earn a sitting fee. You
15 only put it into tax returns for few years, not - you still miss one or two. That is not excuse and I told you - you knew I'm a City of Perth Councillor, I'm getting a sitting fee, and I also told you, you put it in, but you still haven't, some of the years, one or two years." So it's not intentionally hiding, Commissioner. So look at the person, you need to look at the duration, over 20 years - 24 years in this country, I
20 always very dependent on professionals' help because of my time restraint. If I got plenty of time, I could do things properly. I wouldn't go to the public life if I'm treated like this, you know. I wouldn't, never, in this country.

25 All right, Ms Chen. Mr Urquhart.

MR URQUHART: Thank you, Commissioner. Madam Associate, if you could put up, please, document 17.1165.

30 MR THOMAS: Could Ms Chen have a five minute break before we move on to the next?

[11.00 am]

35 COMMISSIONER: Ms Chen, do you need a break?---Yes, please. To the newspaper, only - - -

Ms Chen, take a break. I will adjourn for five minutes.

WITNESS WITHDREW

40

(Short adjournment).

HEARING RECOMMENCED AT 11.09 AM

45 **MS Lily CHEN, recalled on former affirmation:**

COMMISSIONER: Yes, Mr Urquhart.

MR URQUHART: Thank you, Commissioner. Madam Associate, just before that break I was asking you if you could bring up 17.1165, TRIM number, sir, 17904.

5

Ms Chen, this is the notice to produce that was served on you back in March by the Inquiry, okay? We have had a look at this document two weeks ago. I just want, Madam Associate, if we could go to, I think it's 17.1166 first. There we go. The next page if we could go to now, Schedule B. We can see there, Ms Chen, the definition of what income is that the Inquiry wanted you to produce. You read that page, didn't you?---Yes.

And you would have read that page because you would have seen that income also included rent and that's why you got your lawyers to provide the Inquiry with all the income you received from your rental property for these two financial years, but if we have a look at paragraph 3(c)(iv), do you see that?---Yes.

It says:

20 *A commission payment, bonus, fee or other payment however so described, the name or identity of the person or body that made that payment to you.*

You read that as well, didn't you?---Yes.

25

And you realised that those payments you received from Devwest fell within that definition?---That's correct.

Didn't you?---Yes.

30

Ms Chen, as I understand your evidence, you're saying you read what income you were required to disclose to the Inquiry, and when you read that, that you had to disclose all commission payments, you had forgotten about the commission payments that Devwest had made to you?---That's correct.

35

Really?---Yes.

So you understood what a commission payment was but you failed to remember that Devwest had paid you a number of commissions over a number of years, including commission payments in these two financial years that the Inquiry was seeking information about?---Yes.

40

But you remembered your rental payments?---That is, accountant every year ask me for it.

45

Let me get this right, you knew that the Devwest payments fell within that definition but you had forgotten that you had received Devwest

payments?---Correct myself, I thought they paid me before this period. I didn't check carefully this period, that they still paid me some. I thought is before 1 July 2015.

5 Ms Chen, do you want me to take you back to that document that we carefully looked at two weeks ago where we saw just how many payments you received from Devwest in 2015/16?---You don't have to because I myself thought I should check, go to Westpac to check and, you know, these two financial years, whether they paid me or not.

10

But you didn't?---Yeah, I didn't, I failed.

So you did actually remember that Devwest had been paying you commissions?---I remember they paid me but not exact timing.

15

All you needed to do was just have a look at your bank statements like the Inquiry did?---Very rarely I go back to bank statements.

That's all you needed to do?---I should.

20

Wasn't it?---Yes.

But you didn't do that?---Yes

25

[11.15]

Ms Chen, you received, and we can go to the records if we need to, for 2015/16 you received \$100,200 from Devwest in commission payments?---\$50,000 is commission on my own company's investment.

30

Ms Chen, you received, under that agreement signed by you in your name that you had with Devwest, under that agreement - do you remember you signed that as an individual, that you would receive 5 per cent commission on the amount of any investments made to Devwest for their property developments by an investor introduced by you, 5 per cent?---That's correct.

35

I'm saying to you, and we went through this last time, that you received, for the 2015/16 financial year, no less than five payments from Devwest totalling over \$100,000?---That is including interest on my own investment.

40

No, it's nothing to do with that. This is separate. These are payments that you received of \$7,500, \$67,500, \$7,200, \$7,200, \$10,800. These are all the amounts we went through painstakingly two weeks ago which you admitted were commission payments from Devwest. Ms Chen, you claimed in your total income for that financial year to the ATO, the amount of \$78,947, okay? You received more than that in just your commission you received from Devwest for that financial year. Are you saying you forgot? What's your explanation for not

45

disclosing \$100,200 in commission payments from Devwest for that financial year?---Not intentionally.

What's your explanation?---No explanation.

5

The only explanation is that you intentionally did not disclose that, just like you'd done on your annual returns and all your tax returns. That's the only explanation, isn't it, Ms Chen?---No.

10 I'm giving you the opportunity to provide another one?---Not intentionally. It is mistake, I didn't go back to check.

But you hadn't forgotten that you received all those commission payments amounting to over \$100,000, had you?---I cannot remember exactly amount.

15

No, but you knew you received more than \$500 from Devwest?---This is my mistake. I didn't go back to check for these two financial years, I should disclose to the Inquiry.

20 I just want to know why. You didn't have a choice here, you were compelled to do it?---Yes, no choice.

You are compelled, no choice at all?---That's correct.

25 But you chose to ignore those commission payments?---No, I - no, not. It was my mistake, I should have go back to check and put all. Then I don't have to be like now.

30 So you made the same mistake to three different authorities over the course of seven years, did you?---Is one connected to another one, yes.

All unintentional?---No, 100 per cent is not intentional.

Not intentional?---M'mm.

35

Just a mistake?---Yes, mistakes.

Huge mistakes, aren't they?---Needed to carefully, for the future and also pay the extra tax.

40

Thank you, sir.

COMMISSIONER: Thank you.

45 MR URQUHART: That completes my questioning, sir. I think we can just do a seamless transfer.

COMMISSIONER: That would be good, thank you, Mr Urquhart. Ms Ellson, just take whatever time you need to settle in at the Bar table.

MS ELLSON: Thank you, Commissioner.

5

EXAMINATION-IN-CHIEF BY MS ELLSON.

Ms Chen, I would like to start by asking you some questions about Mr Stevenson?---Yes.

10

Throughout his employment with the City, the fact that he felt obliged to report matters to the CCC was a theme of discussion amongst the Councillors, wasn't it?---The question is, he failed to report to CCC?

15

Felt his obligations to report matters to the CCC and the way he felt about that was a topic of discussion amongst the Councillors, wasn't it?---Not to my knowledge.

The Councillors, including you, talked about Mr Stevenson using or reminding them about his obligations to report matters to the CCC quite a bit, didn't he?---He did, yes.

20

And he raised that topic with you?---Once.

And you're aware he raised that topic with others?---I heard a few - not specifically talk to me and some other Councillors, they also were reminded by Gary and said he has obligation to report anything that he's obliged to report to CCC.

25

And those were things that were raised from time to time throughout Mr Stevenson's employment, were not they?---Not to my full knowledge but he did mention to me once, yes.

30

Ms Chen, I will ask you to be shown a document at page 14.1903. Ms Chen, do you see there an email from the Lord Mayor to yourself and other Councillors dated 7 June 2013?---Yes.

35

Do you see there the Lord Mayor is indicating that a confidential six month appraisal is attached?---Yes.

Madam Associate, if you could turn to page 14.1904. This is TRIM 23138, sir.

40

COMMISSIONER: Thank you.

MS ELLSON: Do you see there a CEO Performance Review?---Yes.

45

I ask Madam Associate to turn to page 14.1911. Do you recognise this document, Ms Chen, as Mr Stevenson's six monthly Performance Review?---Yes.

And that was completed in June 2013?---Yes.

5 Under the heading, "This comment relates to a D rating", the words, "Gary's priorities are different to those of the Councillors. He's not watching our backs", is that one of your comments?---Not mine.

Is that something you believed at the time?---Not exactly what's that mean. He was really nice to me.

10 That's not really answering my question, Ms Chen?---No, I don't think "watch our backs" is the correct description to myself.

15 Did you find him to be similar to the previous Chief Executive Officer?---Different in terms of personality and in interpersonal communication, is totally different.

You see there the words, "Needs to get in the City's corner, looks like he is busy protecting himself and not protecting our interests", do you see that?---Yes, I saw.

20 Is that your comment?---Not mine.

In June 2013, did you agree with that?---Not exactly what's it mean. Certainly he has to protect himself and also, from the compare with previous CEO, he probably didn't give us enough advice but when someone ask him for advice and then otherwise, he was really nice guy.

25 Aside from being a nice guy, Ms Chen, this is his Performance Review so I'm asking you to consider his performance in terms of the questions that I'm asking you?---Yes.

30 Was it your view that Mr Stevenson in June 2013 was not protecting the interests of the Councillors?---No.

35 The next sentence, "Why does the answer have to be the CCC or the Ombudsman or an external review, just deal with it", do you see that?---Yes.

Is that your comment?---No.

Did you, in June 2013, share that view?---No, because I didn't know.

40 Pardon?---I didn't have any idea about those.

The document can be taken down, please, Madam Associate. At any stage, Ms Chen, during Mr Stevenson's employment, did you consider that he used the CCC as a veiled threat?---I feel that way.

45 You do?---Yes.

Can you tell me why?---Well, I think probably this is his own obligation, also his personal interest as a CEO and he would say to us, if we ask him something in the future, whether, you know, I could do or someone else could do, he would say, "If someone does that, I would report them to CCC."

5

That's not really a threat though, is it, it's a statement of his obligations?---Some people probably perceived that was a threat because never did - no CEO did before.

10 So because no-one had done it before, you were concerned that he might?---You feel different.

It's important for the City to have someone in the CEO's role who adheres to the requirements in terms of governance, isn't it?---Yes.

15

And Mr Stevenson did that, didn't he?---He did. I think he only means - the way, how he communicated. Otherwise, yes.

20 Did you consider at all during the term of Mr Stevenson's employment that the veiled threats that you saw ought to be dealt with in-house?---Some very serious matters, they should report, and then some of them can be dealt with internally.

Like what?---For example - how to say?

25 Gift Declarations?---Gift Declarations and then he could caution us and disclosure. The new Local Government Capital City Act, those things can be dealt with internally

[11.30 am]

30

A failure to disclose contribution to accommodation, what about that?---Yes, those ones should declare and then internally deal with and then can be sort out quickly.

35 It's not always appropriate though, is it?---If very serious conflict of interest, yes, probably not.

It would be wrong for Mr Stevenson not to report matters to the CCC if he formed a belief that was necessary, isn't that right?---Correct.

40 And it's wrong for you to expect him to deal with matters in-house that ought to be reported to the CCC, isn't it?---That's correct.

45 I will just ask you now to identify whether some comments in Mr Stevenson's first annual review, so his 2014 review, are yours. Do you have a memory of completing a questionnaire for Mr Stevenson's first annual review?---I think I did a few. Cannot remember what I wrote.

I will just turn that up, Ms Chen?---Yes.

5 Madam Associate, if you could bring up page 14.1445. Do you see there, Ms Chen, a CEO Performance Review, September 2014 with the handwriting, "Final" on it?---Yes.

Have you seen this document before?---Yes.

10 Do you recognise it as Mr Stevenson's first Annual Performance Review?---Possible.

I ask you to turn, Madam Associate, please, to page 1447. Ms Chen, can you please read the first two sentences to yourself?---Okay.

15 Have you done that?---Yes.

In September 2014, did you share the view that, "Elected Members are concerned at the CEO's use of the CCC as a veiled threat"?---No.

20 But you did have that view of him?---Just probably feel threatened but is not he means to threaten us but just feel, yes, feel the way how he communicated.

So you felt that when Mr Stevenson raised the CEO, you felt that was a threat.

25 COMMISSIONER: CCC.

MS ELLSON: I'm sorry, yes. Thank you, the CCC?---Okay.

30 You felt that when Mr Stevenson raised the CCC, he was threatening you?---Not threaten me personally. Is like, in general, is a kind of a threat to - - -

Are you - pardon?---Is only feeling, is not so strong.

35 So it was a feeling that you had but it wasn't a strong one?---Yes.

"We need to know that the CEO has our backs and guides us respectfully"; in September 2014, did you share that view?---Not really, because each time when I came to him, approach him, he was really good and nicely guided me, yes. So give me good advice.

40 Do you know what "has our backs "means?---No."

45 It means that you're playing on the same team, doesn't it?---I think it's give advice not to threat, this is my understanding.

Looking out for the other person?---No, look - how to say? Asking for advice and then he could immediately give you advice and not to say, "If you don't listen to

me and then, or I will report you."

5 Madam Associate, that document can be taken down, please - I'm sorry, I need it again. My apologies. Can you look at 14.1452, please. Ms Chen, at the very bottom paragraph it says:

In several discussions with the EMs mention was made of the CCC.

10 Did you speak to Mr Blades about Mr Stevenson speaking to you about the CCC in his first Annual Review?---No.

Is that something you could have done?---That once he mention it to me, I'm not sure if it's in 2014 or afterwards.

15 So this could be?---Could be, yes.

Were you openly critical to Mr Blades of the fact that Mr Stevenson raised the CCC as a veiled threat?---No.

20 You had raised that concern before?---I didn't.

You did feel, not strongly, but you did feel threatened when Mr Stevenson raised it with you on that one occasion?---Yes.

25 So this could be you?---Not me. I didn't talk to Mr Blades, complain about Gary, no.

30 Did you agree in September 2014 that attempts should be made to resolve matters in-house where possible?---This was my view, most things can be resolved in-house.

So it was your view?---Yes.

35 I'm going to take you now to Mr Stevenson next Performance Review. Do you recall completing a questionnaire by Councillor Davidson for Mr Stevenson's 2015 Performance Review?---I cannot remember. I only knew Janet was on CEO Performance Committee.

40 Yes. Did she circulate a questionnaire for you to complete?---I'm not sure if he give to me or someone else but yes, we did some questionnaires.

I will just ask you to be shown an email at 14.0709. Ms Chen, do you see there on 23 June 2015, 4.10 am, an email from Janet Davidson?---Yes.

45 There it purports to be sending an Elected Member an attached copy of the CEO Performance Review 2014?---Yes.

Does this assist you to remember that Janet Davidson was the one who sent you

the Performance Review?---Yes.

It does?---Yes.

5 And you completed that for her?---Yes, should have.

Madam Associate, if you could turn, please, to page 14.0773. Do you see there the CEO Performance Review?---Yes.

10 Do you recognise this as the questionnaire you completed in 2015?---I don't know which year, but yes, it's my handwriting.

And the comment that you've made under, "Strategic and business planning", "Well done! The future direction of the City and the structural reform of the City have been dealt with skills", do you see that?---Yes.

15 Do you remember that comment?---Yes.

Why did you make that?---I feel that way.

20 So Mr Stevenson, in your view, was doing a very good job for the City in October or July of 2015?---Not sure which year. Yes, that is the feeling at the time, yes.

Madam Associate, could you move, please, to 14.0780.

25 (Audio malfunction 11.40.56-11.43.31)

Are you sure about that?---She didn't tell me, like, in person. She probably told others, if I was there or not, or if she send an email, like generally.

30 You've said "if", do you have a memory of the Lord Mayor saying who reported her to the CCC?---Must be Gary.

35 Why?---Because now looks someone told me, but I'm not sure whether it's Lord Mayor or someone else.

When?---No idea when.

40 After the CCC released the report?---I even didn't read the report, so someone - so must be someone told me. Is it before or after I was told it was Gary, yes.

Was it before or after Mr Stevenson was dismissed from the City?---The timing's really very not clear to me, after or before. So is just, you know - maybe before.

45 What makes you say "maybe before"?---Because I not clear with the real timing because I can't really clearly remember, but I was told and he was the person reported.

[11.45 am]

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And in choosing between before or after Mr Stevenson was dismissed from the City, you chose to say maybe before he left. What made you think that it was more likely that it was before?---I can't answer that question because I'm just assuming.

5 Why did you make the assumption? Is it more probable because of what happened to Mr Stevenson?---One of the reasons, I guess.

Were you told by the Lord Mayor that Mr Stevenson was being dismissed because he had reported her?---No.

10

Were you told that Mr Stevenson was being dismissed because he had reported anyone to the CCC?---No.

15 How soon before Mr Stevenson left on 20 January 2016, do you believe you were told that Mr Stevenson had reported the Lord Mayor to the CCC?---Not clear. Quite far, not sure if after he left or before he left, so I was told, that's for sure but - -

20 So you're certain you were told?---Yes, I was told but not really exactly remember is when and how far from his leaving.

25 I will ask you to be shown a document now which might assist, Ms Chen, or it might not. Madam Associate, that document can be taken down, please, from the screen. Ms Chen, do you use a personal email address?---Yes.

From time to time, have you corresponded or communicated with that personal email address with the Lord Mayor?---Yes, not only with her.

30 I'm just looking for a document at the moment, Ms Chen?---That's okay.

Madam Associate, could you please bring up 14.1797. Do you see there, Ms Chen, an email - I'm sorry, it's a WhatsApp. Do you recall, or did you use WhatsApp with the Lord Mayor?---I did.

35 I'm sorry, Commissioner, if I might have a moment, I need to locate a document.

COMMISSIONER: That's quite all right.

40 MS ELLSON: I don't have a reference in front of me at the moment. My apologies.

45 COMMISSIONER: There's no need to apologise. While you're doing that, I'm conscious that there are two legal representatives in the back of the court room. If either of you are finding it difficult to read what is on the large screens, you are more than welcome to come forward to the second Bar table and read off the screen at that table. It's entirely up to you.

MS ELLSON: I need 14.2093, please, Madam Associate, TRIM 23263.
Ms Chen, do you see there an email from a Lisa at a particular address, to your
personal email address - I think you're the third person along in the, "To" line
there, do you see that?---Yes.

5

Do you recognise this as an email sent to you on 6 October 2015?---Yes.

And at the very bottom of the page, it's signed by Lisa M Scaffidi, do you see
that?---Yes.

10

Just above the name there, there's a PS?---Yes.

It reads:

15

*There is a lot more about who referred me to the CCC which I'm very
keen to share, but for now, one haemorrhaging step at a time.*

Do you see that?---Yes.

20

Did you talk to Ms Scaffidi at around about 6 October 2015 about who referred her
to the CCC?---I'm not sure whether I talked to her or not. Either I was told by
someone, if not Lisa, someone else in the group.

When?---Maybe after this email.

25

How long after?---Cannot remember exactly how long after.

Could it have been months?---Could be, yes.

30

Who was in the group, Ms Chen?---All listed.

The people on the list here?---Yes.

35

Thank you, Madam Associate, that document can be removed. In October 2015,
did you and other Councillors learn that Mr Stevenson had been conducting an
internal review with respect to disclosures?---No.

Ms Chen, if you can see, please Madam Associate, 14.0886, TRIM 13556.

40

COMMISSIONER: Thank you.

MS ELLSON: Do you see here at the very top, you've been copied in?---Yes.

To some emails which appear below?---M'mm.

45

Just take a moment to read through them. If you start from the bottom, there's an
email 10 October 2015, 9.30 pm from Ms Scaffidi?---Mm hmm.

Which appears to be written to Mr Stevenson, and above that is what appears to be a reply by him, 10 October 2015 at 9.35 pm, and above that is the email that you've been copied into at 9.59 pm, do you see that?---M'mm. Yes.

5

Do you remember reading this email at the time it was sent?---I should have read, but not so closely.

Does it remind you what was happening between Ms Scaffidi and Mr Stevenson at 10 October 2015?---Yes.

What does it remind you of?---He was the person reported her, probably, and also she asked him to provide certain information and this is talking about external review rather than internal.

15

And she wanted that urgently?---From the email, yes.

It doesn't say anywhere in here that Mr Stevenson reported anyone to the CCC, does it?---No, it doesn't, but it looks - from the reading, looks like he did it.

20

That's not something you thought at 10 October 2015, is it?---No, I just now.

Did you talk to the Lord Mayor at all about her wanting the external review?---No.

Do you have any insight into why she required it urgently?---No idea.

Did you and the Councillors discuss the external review or the possibility that it existed, amongst yourselves on 10 October 2015?---No. I was not involved. Not sure about others.

30

If we turn the page to 14.0885. You can see at the very bottom of the page, "From: Lisa Scaffidi/City of Perth"?---M'mm.

So it was the Lord Mayor who had included you and the other Councillors there in this correspondence, do you see that?---Yes.

35

Can you tell me why?---Including me?

Yes?---Not sure. She always sent the email including me.

40

She didn't always do that, Ms Chen, did she?---Not sure. If she didn't include me, I wouldn't have known.

Matters concerning the CCC were of concern to all Councillors, weren't they?---If not referred myself, well, I wouldn't.

45

But matters concerning the CCC were of concern to all Elected Members, weren't

they?---You should be alert, yes.

And if there was an external review, you would like to know about that?---I not positively want to know but passively, yes.

5

And the Lord Mayor wanted you to know, didn't she?---If she including me for some of the emails, yes, she would like me to know. If she didn't, then she probably didn't want me to know.

10 The top email there from Mr Stevenson to Ms Scaffidi, including yourself, indicates that in late August, Mr Stevenson referred the results of an internal review to the CCC, do you see that?---Yes.

Was that of concern to you in October 2015?---No.

15

Why not?---I thought it was just between him and the Lord Mayor, or other Councillors who breached anything.

Mr Stevenson hadn't discussed a CCC matter with you before October 2015?---No, only once mentioned, never.

20

And you didn't think that one mention might end up in an internal review?---No

[12 noon]

25

Why not?---He didn't mention anything just the once, that's all.

Did you talk about the internal review with the Lord Mayor after Mr Stevenson sent the email on 11 October?---Cannot recall if I talk to her.

30

Is it something you would have spoken to her about?---No.

Why not?---She was under public scrutiny and I wouldn't talk to her.

35

She was part of your group, wasn't she?---To me, not really.

She was part of your group, wasn't she?---In the WhatsApp, yes.

And things that concerned one member of the group concerned the others?---Not necessarily so.

40

You were a team?---Not in a bad way.

But you were?---Yes.

45

So if the Lord Mayor was under public scrutiny, you would be concerned to talk to her about that, wouldn't you?---Yes.

Did you?---Yes.

What did she say?---What did she say about what?

5

About the internal review?---I didn't know there was internal review.

When you found out on 11 October 2015, what did you do about it?---I don't know in which way internal review, so I didn't do anything.

10

You didn't ask Mr Stevenson about it?---No. If he ask me to do certain things, then I would have known.

It was clear from the emails that you've read here, Ms Chen, that the Lord Mayor wanted the results of a review, isn't it?---That's correct, but I only now pay attention to, not at the time.

15

The WhatsApp messaging that you were part of, that was a group called, "Team", wasn't it?---Yes, someone put the name down, probably is the Lord Mayor.

20

And that included Councillor Linnios, Councillor Yong, Councillor McEvoy, Councillor Davidson, Councillor Adamos and yourself?---Yes.

And that was something the Lord Mayor had created to use for mass communication instead of text messages, is that right?---That's correct.

25

From time to time would you talk to other members of the team about other members or other Council members that weren't part of the team?---Yes, yes.

30

Would you participate or did you participate in those conversations?---Yes, sometimes I do - I did.

Did people in the team sometimes make fun of Councillor Harley?---Sometimes, yes.

35

And did they sometimes say mean things about Councillor Green?---Yes.

Did that include you?---Not this one.

40

Sorry, not?---Not Councillor Green.

From time to time you made remarks about Councillor Harley, did you?---Not a lot, little.

45

I ask you to be shown a document in a bundle, Madam Associate, commencing at 14.0069, ending at 14.0200. TRIM 13609.

COMMISSIONER: Thank you.

MS ELLSON: Ms Chen, do you have in front of you there an extract of
WhatsApp chat-1317? Do you see that heading on the document, "Extract of
5 WhatsApp chat-1317", do you have that?---Yes, 137?

Yes, and underneath the heading, there's a list of participants and you're among
them?---Yes.

10 Do you see what's on the page here?---Yes.

Do you recognise it as WhatsApp messages?---Yes.

If you could turn, please, to page 14.0137. I would like you to look at the last
15 message on the page at 1.36 pm?---Sorry, which page?

Sorry, it's red number 0137?---This one?

I can't see that, Ms Chen. I'm just going to ask you though if you have a particular
20 message on the page and that way we will know we are on the same page?---Okay.

At the bottom of the page there, do you have a message time stamp 19.01.2016,
1.36 pm, at the bottom?---Yes.

25 And that's a message from the Lord Mayor?---Yes.

And that would have come to you because you're part of the team?---Yes.

Do you see that the Lord Mayor is attempting to organise a Special Council
30 Meeting for the following day?---Mm hmm.

And she's indicating there that it is urgent and is arranging for Councillors to
attend at a particular time, do you see that?---Yes.

35 Do you have a memory of what happened on 19 January 2016, before the Special
Council Meeting?---Cannot remember. At an earlier meeting, I went, should be.

Sorry?---The earlier meeting, I was asked to go, I did.

40 And you did go?---Yes.

And you went because the Lord Mayor asked you to go?---Yes.

And you went at a particular time because the Lord Mayor asked you to go at that
45 particular time?---I always late so I was late.

But you were there before 9.15 or 9.20?---Probably 9.30.

But you made an effort to go at the time the Lord Mayor asked you to go?---Yes.

5 At the bottom of the message the Lord Mayor indicates that, "You only heard about meeting Tuesday afternoon", do you see that?---Yes.

And in fact, this message is sent on a Tuesday so you only heard about the meeting yourself on the Tuesday afternoon, did you?---Not remember, I can't remember. It's quite late for that particular Special Council Meeting, was really late, I knew.

10 So you had really late notice of the meeting?---Yes.

Before you went to the meeting, did you know what it was about?---Is about Gary? I not clearly remember.

15 What makes you say it was about Gary?---Because I remember before he left I went to the parking area of the City of Perth and he was driving out, so both of us, we crossed each other. We met each other in the car.

20 What day?---Cannot remember which day. Is the day had a Special Council Meeting. I'm not sure is that day a Special Council Meeting or another meeting in the committee room.

25 And it was after the Special Council Meeting?---I met him, is before the Special Council Meeting.

COMMISSIONER: This is Gary who?---Yes, Gary.

30 Gary who?---Gary Stevenson, yes.

MS ELLSON: Did you say there were two meetings on the day of the Special Council Meeting?---No, no. I cannot recall, is in the chamber, had a Special Council Meeting or in the committee room, I mix these two together, forgot about which one. However, before any - that meeting happened, I clearly remember I was driving my car to the City of Perth parking - car parking and Mr Gary Stevenson was driving out from the parking area. So when I went upstairs, I was told he resigned.

40 Were you given any papers for the meeting, the Special Council Meeting?---Normally they would give us one, like a confidential agenda. Sometimes before the meeting, sometimes when you arrived, they give you a sheet.

45 Did you receive some for the Special Council Meeting on 20 January 2016?---I'm not sure about that particular meeting. Normally, when I arrived, then they would hand something to me before the meeting.

When you were told upstairs that Mr Stevenson resigned, was that the first you had heard about it?---Yes.

5 Can you tell me what happened in the Special Council Meeting?---Can't remember what happened.

Was there a discussion about Mr Stevenson resigning?---I think so.

10 What do you think happened?---I think probably he could not continue to work for City of Perth as the CEO and he just simply resigned.

Were you told why?---Not exactly.

15 If the witness could be shown some papers at 9.0213.

COMMISSIONER: Do you want this put up on the screen?

MS ELLSON: Yes, please, Commissioner.

20 ASSOCIATE: Sorry, the number again?

MS ELLSON: 9.0213.

25 While that's happening, Ms Chen, can you tell me who was present at the Special Council Meeting on 20 January 2016?---Cannot remember. Looks like most of us there.

Were there any people from Governance present?---Always.

30 Did you see Governance people present at this meeting?---Cannot recall. Normally is required to have one Governance person sitting next to Lord Mayor.

35 The meeting wasn't in the Council chamber, was it?---Yes, this is why I confused. I remember is big committee room or in chamber, so is one of them. I think, if I'm not wrong, probably more likely is in the big committee room.

You can't say for sure?---Yes.

40 Is there public access to level 9 in the Council House, do you know?---The chamber? The chamber, the public has access. The committee room, no, unless you invite them, or you can. It's open to public but normally public, they wouldn't go to the committee room unless it's related persons.

45 Do you know who took the minutes at the meeting?---Cannot remember on that occasion. Normally, when I Chair any meetings, I always got a special person next to me

[12.15 pm]

Is that person from Governance?---Yes - not sure from Governance from where, but there's a designated person sitting there.

5

It's not usually the Lord Mayor's personal assistant?---No.

If I could ask you, please, to turn, Madam Associate, to page 9.0215. You see there, Ms Chen, you're marked as being present?---Yes.

10

And the minute taker is Ms Smith, and the meeting was declared open at 9.21 am?---Then I'm already there.

Madam Associate, 9.0216, please. Here there's a confidential item that's being discussed which is Mr Stevenson's Performance Review, do you see that?---Yes.

15

Can you tell me what discussion was had about Mr Stevenson's Performance Review?---Not exactly I remember but as a general impression, he was good with Local Government reforms and the restructuring of the City of Perth and said he was not good at interpersonal communications and didn't give the proper advice, rather than reporting to CCC.

20

Were you provided with any paperwork with respect to Mr Stevenson's Performance Review?---Not sure. Probably have some sheets or maybe not, cannot remember exactly on that meeting.

25

So normally at the committee meeting there's agenda papers?---Yes, correct.

You don't remember whether or not you received any?---No, not remember on that occasion.

30

You see here a resolution that, "Council endorses the minutes of a Performance Review Committee held on Tuesday, 19 January", do you see that?---Yes.

35

And the motion was carried and you were among the people?---Yes.

Were the minutes provided to you?---Afterwards, later, is not on the day.

So you voted without them?---The meeting minutes?

40

Yes?---The meeting minutes for the previous ones, yes, they did gave to us.

How long before the meeting did you obtain the papers?---As I said, sometimes they are quite early, sometimes when you arrived.

45

So this happened to you because you were late and you didn't know about the meeting until the day before?---Yes.

This happened for you at the time you turned up to the meeting?---Yes.

5 And you were fairly promptly asked to consider a motion to adopt the minutes, weren't you?---Yes.

10 And you didn't have time to read through the papers very well, did you?---No, if at the meeting. Yes, I didn't have them. Normally, before voting, they ask you to read through.

15 That didn't happen this time?---Cannot remember. Sometimes - most of the time they give you a few minutes to read through, before you vote.

Is it unusual for a Council to endorse minutes?---Your question is?

15

Is it unusual for Council to endorse minutes?---We just say we agree and pass, and is not - the wording, the wording probably is wrong, "endorse". So all the minutes that we needed to agree and pass before next Council meeting.

20 This resolution doesn't indicate that the Council's made a decision about anything, does it, other than to endorse minutes?---Yes.

That's unusual, isn't it?---I didn't see unusual, sorry.

25 You don't see that it's unusual for Council not to make a decision when it's making a motion?---We just - in relation to the minutes and the recommendation of that committee, then we just needed to agree and pass the motion and all the minutes. To me it's very normal.

30 So you considered that Council was endorsing the recommendations of the committee?---Yes.

35 I see. At 9.0217, please, Madam Associate. You see that the Lord Mayor re-opened the meeting and read the resolution at 9.35 and the Lord Mayor declared the meeting closed at 9.40, do you see that?---Yes.

So do you accept that the meeting lasted for 19 minutes?---Very short.

40 Did you discuss Mr Stevenson's resignation in the time you had at this meeting?---We just told and he resigned and didn't discuss further. Very brief, I remember, meeting.

45 Madam Associate, that document can be taken down, please. I will ask you now, Ms Chen, to be taken to a document at 14.0138 which is in a bundle, Madam Associate. The bundle begins at 14.0069, ending 14.0200, TRIM 13609. Ms Chen, do you have there again chat - 1317, the front page, the same bundle you were looking at before?---14, yes.

You do?---Which page? I have no idea.

I'm going to take you to 14.0138?---Yes.

5

Ms Chen, do you see there toward the bottom of the page, a message at 1.18 pm with your name next to it?---Yes.

Do you recognise that as a WhatsApp message you've sent to the team?---Yes.

10

And you say:

Thanks for Lisa and Employment Committee for the hard work you have done, xxx.

15

Do you see that?---Yes.

Can you tell me why you sent that message?---Cannot recall why.

20

Was it to congratulate the CEO Performance Review or the CEO Employment Committee, the CEO Performance Review Committee for a job well done?---Possible.

What was the job?---No idea, what they did.

25

Mr Stevenson resigned, didn't he? That's what you said, you don't change your evidence?---No, I didn't change my evidence.

So why was accepting his resignation hard work?---Probably just to please the group.

30

Sorry?---Please the group.

You sent the message to please the group?---Yes.

35

What does that mean?---It means, because nobody - I was not involved in, so sometimes I just gave some - the words, for no meaning.

So you just wanted to send them words of encouragement?---Please them.

40

How would you sending that message please the group?---Probably wanted to say, I'm one of the team.

You wanted to feel included?---That's correct, normally is excluded.

45

If you read through the messages going over to the next page, Ms Chen, you will find, I hope, another one from yourself at 20 January 2016, 1.48 pm?---Yes.

Do you see a message from you at 1.48 pm which says, "When we find time, can we have an informal debriefing", do you see that?---Yes.

5 Can you tell me why you sent that message?---Because I didn't know anything, the details, the things behind closed doors and all the matters between, so that's why I ask for informal debriefing, what happened?

10 You didn't know the details of Mr Stevenson's resignation, but you voted to accept it?---Because that's his own choice, so I agreed with it.

That's what you thought, it was his own choice?---Yes.

15 And you were told that?---Yes.

Above your message there's one there from Mr Adamos, can you read that to yourself?---Yes, I read.

20 As at 20 January 2016, do you agree with what that message says?---Yes.

There's another message, Ms Chen, at 14.0141?---Yes.

2.26 pm?---M'mm, I saw it.

25 Do you see there you're asking a question, "Not resignation", do you see that?---Yes, I questioned them.

30 Why?---Because I was told he resigned and then the newspapers say different. I didn't read the newspaper but then when they brought into the group, then I questioned, is it not resignation, because that was my belief, it was resignation - he resigned.

35 And no-one had told you any different?---Yes, no-one. I was just told. You read down another two, I was told, just told.

Thank you, Ms Chen, those documents can be returned?---Okay. Excuse me, Commissioner, can I just have a few minutes?

40 COMMISSIONER: Yes, of course?---I drink too much water.

That's all right. I will adjourn for 10 minutes?---Thank you.

WITNESS WITHDREW

45 (Short adjournment).

HEARING RECOMMENCED AT 12.55 PM

MS Lily CHEN, recalled on former affirmation:

COMMISSIONER: Yes, Ms Ellson.

5 MS ELLSON: Yes, Commissioner.

Ms Chen, do you have a recollection of what papers, if any, you were provided with before the Special Council Meeting on 20 January 2016?---Cannot remember.

10 Madam Associate, if you could bring up a document at 9.0190, do you see there a document headed, "Submission to CEO Performance Review Committee"?---Yes.

Do you recognise that document?---Yes.

15 What is it?---Submission to CEO Performance Review Committee.

Before looking at it today, had you seen it before?---Cannot recall.

20 Is it among the papers that were provided to you for the Special Council Meeting on 20 January 2016?---Doesn't look like.

It doesn't?---M'mm.

25 I ask you to be shown a document which begins at 9.0177. The previous TRIM number was 17351.

COMMISSIONER: Thank you.

30 MS ELLSON: Do you see there what looks like a summary document headed, "City of Perth - CEO Performance Review 2015", do you see that?---Yes.

Do you recognise this document, as a document that you've seen before?---Not sure, probably I had.

35 What makes you say that?---Not at that meeting, not at the Special Council Meeting.

You're certain?---Not certain, not sure whether I viewed this one before the meeting or at a time.

40 If the witness could please be shown a document at 9.0171. Do you see here an agenda for CEO Performance Review Committee meeting, 19 January 2016?---Yes.

45 And the minutes are approved for release by Councillor Davidson?---Yes.

Madam Associate, if you could turn the page, please, to 9.0173. You see there

some writing, "Minutes of the meeting of the City of Perth CEO Performance Review Committee held in Council House"?---Yes.

5 "Presiding: Councillor Davidson. Councillors present: Lord Mayor and Councillor Limnios, and Ms Smith, minute taker"?---Yes.

It's not usual for Ms Smith, the Lord Mayor's personal assistant, to take minutes of committee meetings, is it?---Should not.

10 Do you recognise this page as being part of the minutes of the CEO Performance Review Committee for Tuesday, 19 January 2016?---I cannot remember exactly this page, but I knew three of them had the performance committee.

15 Were you provided with the minutes before you voted on adopting the minutes?---Yes. I cannot remember this page.

[1.00 pm]

20 The next page is 9.0174, please, Madam Associate. Do you see there what purports to be resolutions?---Yes.

And there's a list?---Yes.

25 Do you understand that your vote at the Council meeting on 20 January 2016 was to adopt all of these recommendations?---Cannot remember the contents of this, but yes, and they gave us something.

What did they give you?---I think not this, the whole sheet. This only one page.

30 What did the one page have on it?---Cannot remember the content, just say - is basically the summary recommendation of the CEO Performance Review and then cannot remember what exactly was, and they give us something and not this one, not the CEO Performance Review. The page you just showed me, I didn't see it before.

35 So when you got to the Special Council Meeting on 20 January 2016, you were a bit late and they showed you one page?---Yes, everyone has one.

40 Not these minutes?---Not those.

And everyone had - - -?---Has one.

- - - the same page?---Yes.

45 And it was one page?---Yes.

And it wasn't these minutes?---No.

And it wasn't the two sets of documents that I showed you before?---No.

What did the one page have on it?---Cannot remember exactly the content.

5

Did it have anything to do with Mr Stevenson's resignation?---Yes.

What makes you say yes?---Is because only one thing, that the special meeting dealt with, and very brief and very quick.

10

So the meeting itself was very quick?---Yes, short one.

And very brief?---Yes.

15

COMMISSIONER: Who gave you the one page?---So like everyone is - is just on the table and then the Councillors, we all shift to me when I sit on my chair.

What did you do with this one page at the end of the meeting?---I just give them back.

20

To who?---Just leave on the table, someone else collect it.

Thank you. Would this be a convenient time?

25

MS ELLSON: Yes, Commissioner, I am about to change topic.

COMMISSIONER: Thank you. I will adjourn the Inquiry to 2.15 this afternoon.

30

WITNESS WITHDREW

(Luncheon Adjournment)

35

40

45

HEARING RECOMMENCED AT 2.19 PM

MS Lily CHEN, recalled on former affirmation:

5 COMMISSIONER: Yes, Ms Ellson.

MS ELLSON: Commissioner.

10 Ms Chen, I want to talk to you a little bit more about the one piece of paper you were given when you attended the Special Council Meeting on 20 January 2016. Was there anything on it recommending that Mr Mileham be appointed as Acting CEO?---Not on that meeting. That meeting only for Gary Stevenson.

15 Was there anything on the one piece of paper indicating that Council had negotiated with the CEO, Mr Stevenson, for a mutually agreed separation supported by a Deed of Settlement and Release, including a payment to the CEO of 100 per cent of the total annual remuneration?---That did ring my bell, yes, possible.

20 What makes you say it's possible?---Yes, I knew that. I knew what you just described, the content.

25 So you knew that Council was letting Mr Stevenson go and paying him over \$350,000?---Not sure the exact figure, but they said there is a Deed of Settlement, was drawn. I didn't see the deed itself.

30 On the one piece of paper you were given for the meeting on 20 January 2016, was there anything on it to indicate that the CEO Performance Review Committee recommended Council accept an option 1 offer on 30 November 2015 by Mr Stevenson that related to 8.5 of the employment contract, "Termination by the City for any reason"?---This ring my bell as well, so possible.

35 Is it possible because it's about Mr Stevenson or is it possible for some other reason?---Is not exactly knew what was said but certainly knew there's a deed and then in accordance with which clause of the contract, I couldn't really remember.

Do you remember seeing anything about an option 1?---Option 1? Yes, is possible as well.

40 Do you know what I'm talking about?---You just said, for any reason the City terminate.

You think that's what it means?---Yes.

45 Was there anything on the one page that you were given for the Special Council Meeting on 20 January 2016 which indicated that the CEO Performance Review Committee had discussed the matter with Mr Stevenson?---No idea. So the deed -

if deed was drawn, then must have discussed.

But that's your assumption?---Yes, correct.

5 You don't know?---Yes, don't know.

Was there anything on the one page you received on 20 January 2016 to indicate that Mr Stevenson had made submissions about his Performance Review or his Performance Appraisal?---No.

10

So is it fair to say that you voted without knowing about Mr Stevenson's submissions?---Yes, I didn't know his submissions. I only knew he resigned, that's why I agreed for the Special Council Meeting and my thought is, his choice.

15 And that was an easy vote for you because you thought Mr Stevenson was choosing to leave, isn't that right?---Yes, that's correct.

You didn't know when you voted about Mr Stevenson and an option 1, did you?---No.

20

So is it fair to say that you voted to allow Mr Stevenson to resign under a Deed of Settlement without knowing any more details?---No, I only knew there's a Deed of Settlement was drawn and then Mr Stevenson agreed to resign or chose to resign, then I voted for that.

25

And you voted that way because that was your team's vote?---No. I often used my own mind to make a decision but if the others agreed, probably feel a little bit better.

30 And the others did agree, didn't they?---They did.

So you felt better about your vote because of that?---Because like a common sense or majority view.

35 Were there minority views about Mr Stevenson's resignation?---No. I remember it's unanimous.

Ms Chen, I'm going to change topics with you now. Do you recall the recruitment process for Mr Mileham?---Martin?

40

Yes, Martin Mileham?---Recruitment process? Not the process itself.

Do you know whether or not you were involved at all?---I only voted for whether I agree with Martin to be the CEO and I did agree.

45

Why did you agree?---He has been working for the City for a while and as Director of Planning. I found him was very competent in his area of expertise and often we

had meetings together. I find he impressed me with his Planning knowledge.

What about as a CEO?---His personality certainly, interpersonal communications with us, I feel probably more comfortable.

5

More comfortable than what?---Than Gary, Gary Stevenson.

Did you trust the CEO Recruitment Committee's recommendation to appoint Mr Mileham?---Yes, I did trust my fellow Councillors.

10

Did you attend a presentation that Mr Mileham gave, as well as another candidate? So in the second round of interviews there were two candidates who were asked to present or make a presentation; did you attend a presentation?---I didn't.

15

Were you asked to?---I cannot recall. I'm not sure whether I was asked or not, but I didn't attend any of these kind of presentations.

Ms Chen, I would just like to remind you of something because you might have made a mistake. The Special Council Meeting in which the recommendation to appoint Mr Mileham was made occurred on 1 September 2016 and the minutes indicate that you were an apology for that meeting?---Okay.

20

Could you have confused your agreement to appoint Mr Mileham with a conversation you might have had with some of the members of the committee about Mr Mileham's appointment?---I think is in the committee room, not - probably not in a Special Council Meeting.

25

So did you have a meeting with some Councillors to talk about Mr Mileham's suitability?---I think there was a meeting and full of people, like all Councillors or someone missing, I have no idea, but we did discuss, yes.

30

When was this meeting?---Not sure, is before that or after that. Cannot remember the date and the time but we did discuss about him.

35

What did you discuss?---Said he's competent and he's the Director, we knew him quite a - for a while, and then, yes, something like that

[2.30 pm]

40

From that meeting and what happened in it, was it your sense that everyone on the Council agreed that Mr Mileham was the person who should be appointed?---That's my impression, correct.

45

In the meeting you describe, were any other candidates discussed?---I think mainly talk about Martin. I think there was someone else but the other person wasn't known to us, we are not familiar with.

Is it your view that Council preferred the internal applicant?---That's a possibility.

What makes you say that?---Because you knew him and he already performed and in his area, in his Directorate, then you find him, he was competent in that area.

5 So if he was promoted to the CEO, we find he's quite reasonable, to me at least.

So during the meeting you're talking about, you're indicating, are you, that there was an agreement that Mr Mileham should be promoted?---Is a general sense.

10 And this was among all Councillors?---Not sure whether we missed one or two but most of them were there.

Can you say whether or not this meeting occurred on or before 1 September 2016?---You're talking about a Special Council Meeting I didn't attend?

15

The meeting that I'm talking about is the meeting you're talking about where you describe Councillors talking about Mr Mileham's suitability and agreeing that he was the suitable candidate?---I think must be before the official appointment. This also assumption, I'm not sure whether I'm accurate or not.

20

Can you say how long before?---Not long, quite close, my impression.

I'm going to change topics with you again, Ms Chen?---Yes.

25 The Grand Central Hotel, which is now called the Akara, is a property in Perth City, do you know it?---Yes.

And you do know that the Lord Mayor and her husband have a financial interest in it?---Yes.

30

And have you always known that as a Councillor?---After I went to the Council, yes, I got to know.

And from time to time have you spoken to the Lord Mayor about her property, the Grand Central Hotel?---I did.

35

When did you have those discussions with her?---Quite earlier years of myself being on the Council because I was approached by a potential buyer who wanted to buy that property.

40

What discussions did you have with the Lord Mayor about that?---And I said, "You know, someone wanted to buy the hotel, do you want to sell", she said, "No."

Is that the only discussion you've had with the Lord Mayor or have you had others from time to time?---No.

45

Others from time to time?---For the hotel?

5 Yes, about the hotel?---I think I did - yes, another time is that after the hotel was listed for Heritage Listing, I did talk to her and I said, "I went to the hotel myself and I saw those glasses, the window glasses, it looks like church glasses, and I said really invaluable", that's what I said.

You said that to her?---Yes.

10 That the windows on the hotel were invaluable?---Yes.

And what did she say?---Forgot what she said to me but I only remember what I said to her.

15 When did you have that conversation with her?---Think it's after the hotel was listed as Heritage.

When you say listed for Heritage, what do you mean?---I think they said that hotel has heritage value and should be listed to the Heritage List.

20 So that was a point in time where Council were determining whether or not it should be listed?---Again, sorry?

25 That was the point in time when Council were considering whether the property should be listed?---You're talking about my conversation with her?

Yes, around about the time where Council was considering whether it should be listed?---It's afterwards.

30 Do you have a recollection, Ms Chen, of voting in a Council meeting on the subject of the Grand Central Hotel in March 2015?---I couldn't clearly remember whether I attended that meeting or not. If I did, I must have voted.

35 Can you tell me whether or not you discussed your potential vote for listing the Grand Central Hotel at any stage with Councillor Limnios?---For that hotel?

Yes?---I couldn't remember discussed with him.

I'm going to ask you to be shown some documents, Ms Chen?---Yes.

40 Madam Associate, at 27.3455, do you see there a table which is an extract from an iPhone from Councillor Limnios?---Yes.

45 Do you see there along the side, phone numbers, along the left-hand side there's telephone numbers running down?---Yes.

Madam Associate, if you could turn the page, please. Do you see there in the top row, Ms Chen, a telephone number belonging to you?---Yes.

Is that your personal phone number?---Yes.

5 In the column underneath, "Message", do you see there a message from a person with the surname Limnios?---Yes.

To you?---Yes.

10 And it says:

15 *Hi Lily, please don't allow pressure to have you go against three independent heritage reports that recommended Heritage Listing and significance. We will potentially look like fools to the public if we blatantly go against the recommended advice. If you read the article carefully, there is potential for other options for them if their development proposal is a significant contribution to the amenity. We can pass this as per the recommendation and not look like puppets. We should also discuss in person together!!*

20 Do you see that?---Yes.

Madam Associate, if you could turn to page 27.3457, do you see there, I suppose, under the middle of the page, your telephone number again?---Yes.

25 Do you recognise it as yours?---Yes.

And underneath is a telephone number with the name Limnios, the surname Limnios?---Yes.

30 And across and underneath there's a message and it says:

35 *As you are aware I am pro development like yourself. The inside I have been and it has run down and cannot see the value to our street landscape, and we need something more valuable than current building not to have further delay. No-one gives me pressure. James, I would like to use my capable brain to decide which way is the best for our City, not for any individuals. I vote one way or another is the result of my careful thinking rather than dictated by anyone. Almost five years, I must consider the best interest of the City rather than myself. It is*
40 *nothing to do with the fact I am your close friend and elder sister, Lily.*

Do you see that?---Yes.

45 Do you recognise that as a message that you sent?---Yes.

Can you tell me, thinking about those two messages, what was happening on or around 11 September 2016?---From the two messages, I believe James Limnios

tried to lead me to agree with him and his team and then he assumed I was pressured by Lisa or someone else and then I told him, no-one talked to me about this hotel at all. So this is what I meant, no pressure.

5 You say that Mr Linnios had his team, who were they?---Himself, Mr Harley and Green and probably new members, another two additional new members, that is Buxton and another one, Hasluck.

10 They didn't quite have five votes altogether, did they? They needed your vote to make a difference, didn't they?---Possible.

It's probable?---Probable, yes.

15 In fact, it's correct?---Yes.

Had you had pressure placed upon you by the Lord Mayor to vote in a particular way about her property?---No.

20 You talked to her about her property after you went to see it?---Yes.

You've mentioned that you've been to the property here in this message?---Yes.

25 So did you have the conversation about the Lord Mayor's property's windows with her at about the same time, 11 September 2016?---Afterwards. That one, why I remember is because I did discuss that matter with an external person, a lady.

Did you go to the property more than once?---I think, seriously, only once, bypass many times.

30 So it's reasonable to think then that you spoke about your visit to the hotel around about the time that you did it, that you went?---I didn't tell the hotel, only on the entry - I didn't go very deep, like in rooms.

35 I'm sorry, I think I didn't ask you the right question?---Sorry, it probably is my fault.

You spoke to the Lord Mayor about your visit to the hotel at around about the time you did it?---No, is after, quite some time I did it.

40 Why after quite some time?---Because already listed and I express my view why I agreed for the hotel to be listed.

After you voted?---After I voted, after I visited

45 [2.45 pm]

You visited after you voted?---I visited first.

Yes, and then you voted?---Voted and then - - -

And you spoke to the Lord Mayor about why you voted the way you did?---Yes.

5

I see. Madam Associate, that document can be taken down, thank you. Ms Chen, did the Lord Mayor offer you a trip to Nanjing, around about 2016, a trip which Deputy Lord Mayor Limnios could not take?---2000 - which year?

10 2016?---It's like Sister City visit.

Usually for the Lord Mayor?---Yes.

But if the Lord Mayor couldn't go, it's for the Deputy Lord Mayor?---Yes.

15

And if Councillor Limnios couldn't go, did the Lord Mayor offer it to you?---I cannot recall. I did go to Nanjing with a group of Councillors, and including Lord Mayor. I didn't go by myself.

20 When did you go on that trip?---Sister City visit to Nanjing and South Korea, quite a long time ago.

Was it in 2016?---Very possible, yes. Can't really remember which year but we did visit, not only myself.

25

Did Councillor Limnios go?---Yes, he went with us.

Who else did?---Lord Mayor, James Limnios, Janet Davidson, who else? Cannot remember, quite a few.

30

Is that the only trip you've taken as a Councillor to Nanjing?---Nanjing only once. I'm not sure whether I went to Nanjing or not, sorry. I went to Zhandou, another Sister City, before I went to Council.

35 I'm talking about when you were a Councillor?---Yes.

And you've told me about a trip to Nanjing with a group of Councillors?---That is probably confused with the pre-City, pre-Council. This Sister City, I went to Zhandou and South Korea, Seoul, is before I went to Council. After Council, I

40

went to Houston.

As a City of Perth Councillor, so don't talk to me about going to Zhandou?---Yes.

As a City of Perth Councillor, what overseas trips have you gone on as a Councillor?---I went to Houston, I went to Hong Kong. I'm not sure whether Hong Kong trip I also included Nanjing. That is my confusion, confused place - point, and I think probably is went to Hong Kong, then went to Nanjing with Lord

45

Mayor. Yes, probably this is that trip.

When did you do that?---Maybe second term, then maybe is 2016. I have to slowly refresh my memory.

5

Did you do that with the Lord Mayor because Deputy Lord Mayor Limnios could not go?---No-one told me that. Today first time I heard, you said.

10 Did the Lord Mayor offer you the trip so you would vote against the hotel being Heritage Listed?---No, nothing to do with that trip. That trip was approved by the full Council.

15 Did Councillor Harley ever speak to you about the possibility that you accepted a trip to Nanjing from the Lord Mayor to vote against it being Heritage Listed?---Cannot recall.

20 Were you invited by Councillor Harley or Councillor Limnios to have coffee to talk about the hotel at any stage before it was voted to be proposed on the List?---No.

Did you speak to the Lord Mayor and tell her that you were invited for coffee to talk about the hotel?---Not for the hotel.

25 The Lord Mayor has made a note in her telephone which indicates that you called her around 16 September 2016 and told her that you had been "invited to have coffee to talk about the Grand Central Hotel last week", so in the beginning of September 2016, by Councillor Harley in the text message?---She text me?

30 No, the Lord Mayor made a note in her phone, she didn't text you. So she's made a record that you called her to talk to her about "being invited for coffee by Councillor Harley to talk about the Grand Central Hotel"?---I cannot remember. Not sure whether Councillor Harley did invite me. Sometimes he does - he did, but I'm not sure about this.

35 About what?---About the hotel.

Are you sure about calling the Lord Mayor and telling her about it?---Cannot remember.

40 Would you accept that the Lord Mayor making a note, made a correct note?---I'm not sure.

What do you mean?---I don't know whether she made the note or not, not to my knowledge.

45

So you don't remember?---Yes.

But you know that Councillor Harley invited you for coffee to talk to you about the hotel?---Not for hotel, probably - from time to time he did invite me for coffee but not for hotel. I don't remember is whether for hotel or not.

5 On 1 November 2016 do you recall attending a Council meeting and voting for the proposed inclusion of the Grand Central Hotel on the Heritage List?---Must be.

Why do you say it must be?---If I attended that meeting, I must have voted.

10 I ask Madam Associate to bring up a document at 27.1199. My apologies, Commissioner. Madam Associate, 1193, please, TRIM 19699.

Ms Chen, do you see there Council minutes, 1 November 2016?---Yes.

15 Madam Associate, if you could turn to page 27.1197. Do you see there you're listed as Councillors present?---Yes.

Madam Associate, 27.1199, please. Do you see there you've declared an impartiality interest?---Yes.

20

As a \$75 donation, and that's from the property owner and that's with respect to the Wellington Street property?---Yes.

Which is the Grand Central Hotel?---That's correct.

25

Madam Associate, 27.1209. Do you see there a motion which proposes to list the Wellington Street property on the Heritage List but gives the owner 21 days to make his submission and allows for officers to report back to Council, do you see that?---Yes.

30

This motion does not have the effect of listing the property straightaway, does it?---No.

Why did you vote for it?---For allowing the owners to make submissions.

35

They had already, hadn't they?---I didn't see their submissions before this meeting.

You'd seen an officer's report?---Yes.

40 To allow you to vote?---Yes.

Madam Associate, 27.1208. In here under the heading, "Owner consultation", it's clear that in March 2015 the owner was invited to comment. There was a response which is contained in confidential schedule 10 and that the owner's comments were included in a report considered by Council in April 2016, do you see that?---Yes.

45

There's no more information there but the owners have been consulted, haven't they?---Yes.

5 So what more consultation was necessary?---At the time I myself, I really do want to go to the hotel to have a look because from ordinary eyes, person's eyes, myself, I have no planning expertise, experience, I wanted to go have look and see what the value really, and from outside, looks really not nice to me, a very old property.

10 What difference does that make to your vote?---Then I thought probably should go back to the Planning Committee and then to reconsider and my personal view, that property - I'm not an expert - that property was really bad maintained and if the property can be redeveloped, probably will add better landscaping to the City as a whole. My personal view without the expert, without reading expert's report, I would vote against listing.

15 But instead you voted for listing, subject to other things happening?---Finally, yes, I read the experts - they engaged an architect to write detailed report about historical value and significance of - historical significance but by the front face of it, especially from - what are the street, Roy Street and across, you look at it, was really bad to me, the property

[3.00 pm]

25 The Council had experts write reports with respect to Heritage Listing this property, didn't it?---Yes.

30 And you relied on those reports to make your vote?---I also think about my own personal opinion because I'm representing ordinary ratepayers, who have no expertise in these areas.

Did you think about the owners?---Yes, a little, yes, I did. I did consider them but that's not important part of my decision.

35 Ms Chen, why did you declare the \$75 donation from the property owner?---Because we are obliged to declare.

You'd been told on 11 October 2016 that you didn't need to declare it, by Mr Ridgwell, hadn't you?---Afterwards someone send me an email.

40 It was before the meeting, wasn't it?---Yes, before the meeting, yes.

And you'd been told by Mr Ridgwell, the Manager of Governance, that you did not need to declare the bowl, isn't that right?---Not sure when he told me.

45 Madam Associate, if the witness could be shown document 5.0069. Ms Chen, do you see there an email from Mr Ridgwell to yourself dated 11 October 2016, 4.31 pm?---Yes.

5 Do you see in this email Mr Ridgwell is telling you that you had received crockery from Mr Joe Scaffidi for a value of \$75. You needed to fill out a gift application but it didn't make you "so closely associated to the person that you couldn't consider any matters before Council", do you agree with that?---Yes.

10 So Mr Ridgwell had notified you of that fact before the meeting on 1 November 2016 and you declared the item anyway, didn't you?---Yes. There was another person ask me to do it, it's not Mark. The last time public hearing, another counsel ask me, this another person from Governance, asked me to put.

Who?---I cannot remember the name now. Is not - - -

15 Is that because that's not true?---Another person?

Yes?---Another person put in writing as well.

Do you trust Mr Ridgwell's advice?---I trust the both of them.

20 Mr Ridgwell's the Manager of Governance?---Yes.

Was it Mr Mianich who gave you the other advice?---Not Mianich, another person. Also looks like from Governance.

25 Mr Ridgwell is more senior to the other officers, apart from Mr Mianich in Governance, isn't he? He's second in charge?---Mianich is the Director.

30 Mianich is the Director, Mr Ridgwell is the second in charge, isn't he?---He's the Manager of Governance, I'm not sure of the ranking.

And he told you on 11 October that you didn't need to declare the gift to vote. You didn't have an interest sufficient to warrant you declaring the bowl?---Let me think about this one.

35 Just looking at the email now, that's what it says?---Yes.

So he told you that on 11 October 2016, do you see that?---Yes.

40 Madam Associate, if you can take that down, please. Anyway, on 1 November 2016, you declare an impartiality interest anyway, don't you?---Yes.

And you did that because you didn't want to vote?---I think, yes, probably better not to vote.

45 But you did vote?---I did.

You didn't want to vote because you didn't want the Lord Mayor to know that you

had voted in favour of her property going on to the Heritage List, isn't that right?---I didn't think about that.

5 You did think about that, Ms Chen, because you've declared an impartiality interest that you didn't need to declare, do you see that?---I didn't see the connection.

10 The connection is that if the Lord Mayor saw these minutes, she would see that you had made a declaration, and at least attempted not to vote, do you understand?---I understood what you mean but that's not my intention.

It was, wasn't it?---No.

15 I can hear you.

COMMISSIONER: What you need to appreciate, Mr Thomas, is that the microphones in this hearing room are very sensitive and the reason for the baffling on the ceiling above you is that reflects the sound very well, so someone at the other end of the Bar table can more than likely hear what you are saying, whether you are alongside them or even behind them.

MR THOMAS: Thank you, sir.

25 MS ELLSON: I have no more questions for you, Ms Chen.

COMMISSIONER: Thank you, Ms Ellson. Is there any other Counsel Assisting with questions for Ms Chen at this time?

30 MS ELLSON: Not to my knowledge, no. I'm sorry, no.

COMMISSIONER: Mr Thomas, do you have any application to make?

MR THOMAS: No, sir, there's no re-examination of this witness.

35 COMMISSIONER: Thank you. Mr Renton.

MR RENTON: I have no application, thank you, Commissioner.

40 COMMISSIONER: Thank you, Mr Renton. In that case, is that Ms Chen's evidence for today?

MS ELLSON: I understand that we need her back at 4.30.

45 COMMISSIONER: Yes. Has that been raised privately with Mr Thomas?

MR THOMAS: It has by Mr Parkinson, sir, yes.

COMMISSIONER: Thank you. Is that going to be a problem, Mr Thomas?

MR THOMAS: No, we can move things around to be back here at 4.30.

5 COMMISSIONER: I'm very grateful, thank you. In that case, Ms Chen, that completes your evidence for today. Thank you very much for your assistance, you may leave?---Thank you.

WITNESS WITHDREW.

10

COMMISSIONER: Ms Ellson, do you need a short adjournment before the next witness?

15 MS ELLSON: I would benefit from a short adjournment, yes, thank you, Commissioner.

COMMISSIONER: In that case, I'll adjourn for five minutes .

(Short adjournment).

20

HEARING RECOMMENCED AT 3.16 PM.

COMMISSIONER: Yes, Ms Ellson. Do you recall Mr Yong?

25 MS ELLSON: I do.

COMMISSIONER: Thank you. Mr Yong, please come forward and take a seat in the witness box to my left. Mr Yong, I will have you either re-sworn or remake your affirmation, which would you prefer?

30

MR YONG: Affirmation.

COMMISSIONER: Thank you, Madam Associate.

35 **MR Yit Kee YONG, affirmed:**

COMMISSIONER: Mr Yin, I have your application for leave to represent Mr Yong. Is there any objection, Ms Ellson?

40 MS ELLSON: No, Commissioner.

COMMISSIONER: In that case, leave is granted.

MR YIN: Thank you, sir.

45

COMMISSIONER: Are you ready to proceed, Ms Ellson?

MS ELLSON: I am, Commissioner, yes.

COMMISSIONER: Thank you

5 EXAMINATION-IN-CHIEF BY MS ELLSON.

Mr Yong, do you recall being involved in Mr Stevenson's six monthly Performance Review?---Yes, I do.

10 Do you recall being involved in all of his Performance Reviews?---Do I recall all his six - - -

Being involved in all of his Performance Reviews?---No, I'm not. I'm not on the CEO Performance Review Committee, I'm not involved in all that process.

15

Madam Associate, if you could bring up for me, please, 14.1903 - actually, 1904. Do you have there or do you see there a "CEO Performance Review - outcome of survey"?---Yes, I can see.

20 And there's the letterhead, Lester Blades?---Yes.

Did you discuss Mr Stevenson's performance with Mr Blades in around June 2013?---I recall some time around that time, I think I spoke to someone from - regarding CEO Performance Review.

25

You did?---Someone who rang my phone, I spoke to someone but I can't recall whether it's Lester Blades.

Did you give Mr Stevenson ratings, A, B, C, D, E?---I believe I did, yes.

30

Madam Associate, can you turn, please, to page 14.1911. The TRIM reference for this, Commissioner, is 23138.

COMMISSIONER: Thank you.

35

MS ELLSON: Mr Yong, underneath the heading, "This comment relates to a D rating", do you see there:

40 *Gary's priorities are different to those of the Councillors. He's not watching out our backs like the previous CEO did.*

At around June 2013, did you agree with that comment?---Sorry, which section? The last section?

45 It's almost in the middle of the page, just underneath the middle, "This comment relates to a D rating", do you see that?---Yes.

COMMISSIONER: I think Mr Yong is making the comment, there are three headings like that.

MS ELLSON: Yes, I do apologise. It's the third heading?---Third heading?

5

The third heading, "This comment relates to a D rating", the third one?---Yes, I can see it.

10 In June 2013, did you agree with the view that, "Mr Stevenson was not watching our backs like the previous CEO did"?---I do not agree. I did not put this comment.

Pardon?---I do not agree and I did not make this comment.

15 You don't agree that that's what Mr Stevenson was like?---I do not agree that this comment was made.

You don't agree that it was yours?---Yes.

20 I see. What I'm asking you to think about though is that in June 2013, did you have the same view?---No.

Even though this is not your comment?---No.

25 The last sentence under there:

Why does the answer have to be the CCC or the Ombudsman, or an external review, just deal with it.

30 Do you see that?---Yes, I do.

Is that your comment?---No.

In June 2013, did you agree with that?---In 2013?

35

Did you think that Mr Stevenson was someone who always brought up the CCC or the Ombudsman or an external review?---No.

40 In June 2013, did you think that Mr Stevenson needed to get into the City's corner because he was busy protecting himself and not protecting your interests?---No.

Is this your comment here?---I cannot recall that I write any comment on the review.

45 Thank you, Madam Associate, that can be taken down - no, I'm sorry, I do need page 1913. Mr Yong, did you ever think that Mr Stevenson did not have your back?---No.

Thank you, Madam Associate. Mr Yong, did you become aware that Mr Stevenson was conducting an internal review of matters potentially reportable to the CCC in or around October 2015, after you got in?---I was not aware.

5

My apologies, Commissioner.

COMMISSIONER: There's no need to apologise.

10 MS ELLSON: Mr Yong, do you recall becoming aware that Mr Stevenson was conducting an internal review to the CCC in October 2015?---I can't recall actually whether it was 2015 but I receive summons from CCC some time around that year.

15 COMMISSIONER: Sorry, what did you receive?---I receive a summons from CCC.

Thank you.

20 MS ELLSON: I would like you to be shown a document at page 14.0886. Do you see here, Mr Yong, an email at the bottom of the page at 9.30 pm from the Lord Mayor?---Yes.

25 And the Lord Mayor is talking about the scope of the CCC investigation and at the very bottom of the page is asking for an external review to be urgently provided, do you see that?---So the last paragraph, is it? Yes.

Do you remember talking to the Lord Mayor or any of the other Councillors about a possible external review?---No.

30 Above the email I've just asked you about, there's a reply by Mr Stevenson at 9.35 pm, do you see that?---Yes.

Mr Stevenson says, "I have not commissioned an external review"?---Yes, I saw it.

35 And above that, there's an email which you're included in?---Yes.

And the Lord Mayor has sent that? Do you see her signature and the text underneath?---Yes, I saw it.

40 And again, she's asking for information to be provided to her urgently, do you see that?---Yes.

45 Did you speak to the Lord Mayor or anyone else, including Mr Stevenson, about an internal review or information relating to the possible disclosures to the CCC around October 2015?---I don't recall speaking to Mr Stevenson or Lisa about this item.

Do you have any insight as to why the Lord Mayor was seeking the information urgently?---I do not know why.

5 Madam Associate, if you could turn the page to 14.0885. Mr Yong, do you see there an email from Mr Stevenson to the Lord Mayor which has copied you in?---Yes.

10 And Mr Stevenson is indicating that in late August he referred the "results of an internal review to the CCC", do you see that?---Yes, I do.

Did you speak to Mr Stevenson or anyone else on Council about the internal review?---No, I did not.

15 Did you want to? Did you think about doing it?---No.

Can you tell me why not?---Because this is - Mr Stevenson as the CEO at that time, it's his right to do so, and I think that he has the right to do so.

20 Madam Associate, that document can be taken down. Its TRIM was 13556.

COMMISSIONER: Thank you

[3.30 pm]

25 MS ELLSON: Madam Associate, if document 14.2093 could be brought up, please, TRIM 23263.

COMMISSIONER: Thank you.

30 MS ELLSON: Mr Yong, do you see there an email from a [REDACTED] [REDACTED]?---Yes, I see it.

Do you recognise in there, in the, "To" column, an email address that you use?---Yes.

35 Is that a personal email address at LexLegal.com.au, or is that your work email address?---Work email address.

40 I see. Do you see here an email from, at the bottom of the page, Ms Scaffidi?---Yes.

To yourself at your work email address?---Yes.

45 Dated 6 October 2015 at 1.06?---Yes.

Have you seen this email before?---I would have, but I can't recall the actual content, if I can read it.

I just need to ask you a question about the last sentence which is:

5 *PS. There is a lot more about who referred me to the CCC which I'm
very keen to share but for now, one haemorrhaging step at a time!*

Do you see that?---Yes.

10 Did you ever speak to the Lord Mayor about who referred her to the CCC?---No. I
don't know who is it.

15 Thank you, Madam Associate, that document can be removed. Mr Yong, do you
recall having an Elected Members meeting or a discussion with people who were
Councillors, about Mr Stevenson on or about 14 December 2015?---A group
meeting?

Yes?---Can't recall, maybe.

20 Madam Associate, if you could bring up, please, 14.0069 - not on the screen, in a
bundle, I'm sorry, which completes at 14.0200, TRIM 13609. Mr Yong, on the
first page there, do you see the heading, "Extract of WhatsApp
chat-1317"?---0069, page?

Yes?---Yes, I see.

25 Under the heading, "Participants", which is in red, do you see your name third
down?---Right after the word, "Team", yes.

30 And do you recognise that telephone number?---I can't recall. I would have been
the Council mobile number, because it's not my personal number.

So you recognise it as yours but it's the Council phone, is that right?---It would
most likely be the Council number.

35 Did you join or were you invited to join a WhatsApp group by the name of,
"Team"?---I'm not sure whether I was invited or automatically added into that
WhatsApp group.

40 So you were included in the WhatsApp group by the name of, "Team"?---Yes.

And you remember using that to discuss Council matters with Councillors?---In
the group, "Team", it would discuss everything, including Council matters and
daily or usual daily matters.

45 And the team was set up by the Lord Mayor?---I believe so at that time.

And the other people listed under the heading "Participants" were the other

members of the team, is that right?---In that WhatsApp group, that's right.

You call it is a WhatsApp group, all right. Do you see there a time stamp entry 22/10/2015, 4.37 pm?---Sorry, what time again? 22nd?

5

22 October 2015, 4.37 pm?---Yes, I see it.

Do you see there it's a message from the Lord Mayor, is that correct?---Yes, it appears so.

10

And as a member of the team you receive all the messages that go into it?---All the members in that group would have received the same messages.

So, "Hey everyone, this is for mass communication. Use instead of text for all of us", is a message you got from the Lord Mayor on that date?---Yes.

15

And did you understand the Lord Mayor wanted you to use the WhatsApp instead of text messaging?---What my understanding is? My understanding is for communication with the group.

20

Instead of text messages or in addition to it?---In addition to text messages.

If we could turn, please, Mr Yong, to page 14.0123?---123?

25

Yes?---The bottom it says 55?

Yes. I would like you to look at the first message on the page under two emojis at the top, do you see that?---Yes.

30

14/12/2015, 5.49 pm, do you see a message there?---Yes.

Underneath that at 14/12/2015, 5.54 pm, you see a message, "We should have this EMs sessions more often" under your name?---Yes, I see it.

35

And underneath that, another message from yourself at 5.54 pm, "Sharing ideas", do you see that?---Yes, I do.

Did you and the Elected Members, or did you and some Elected Members have a meeting to discuss Mr Stevenson on 14 December 2015?---You would have in the group.

40

You would have or you did?---In the group discussion, you would have most likely, yes. I can't recall but most likely we would have discussion in the group discussion.

45

So when you say, "We should have this EMs sessions more often", are you talking about a face-to-face meeting or about WhatsApp messaging, or about something

else?---I recall the EM session as in discussion in the WhatsApp group.

I would like you to look at the message at the bottom of the page at 6.10 pm?---Yes.

5

And just read that to yourself?---Yes.

You've read that?---Yes.

10 Did you have a meeting with some or all of the Elected Members on 14 December 2015 and talk about Mr Stevenson?---14 December, we would have. I remember there are meetings but I can't remember what is the actual date or where and when.

15 The messages are on 14 December in the early evening, late afternoon referring to that meeting, or you refer to "EMs sessions", does that help you remember a meeting occurring on 14 December?---I can't recall actual date on 14 December, the meeting.

20 Do you recall a meeting where Mr Stevenson was discussed and the words in the message you've just read to yourself being said?---I can't recall right now.

25 Given the context of the WhatsApp messages, and the fact that these people are in your group, do you think it's probable or possible that that occurred?---Is probable or possible that occurred, there's a meeting occurred.

25

Probable or possible, which?---Probable.

And that those words were said?---I can't recall and I don't understand what's the meaning of the words said.

30

I see?---Like the word "cahoots", I don't know what's the meaning of that word.

35 Thank you, Mr Yong. Madam Associate, I'm just going to turn to another page now, 14.0137. Please let me know when you have that page, Mr Yong?---0137, in the bottom 69?

Yes. At the bottom, the last message, 19 January 2016, 1.36 pm, do you see that?---Yes.

40 There's a message from the Lord Mayor to the WhatsApp group?---Yes.

"Please remember to be here at 9.15 tomorrow for an urgent Special Council Meeting at 9.30 in the Council chamber", do you see that?---Yes.

45 And you're going to be joined by James, Janet and her on or just after 9.30 am, "Be ready to go, please, in your seats", do you see that?---Yes.

You received that message, Mr Yong, as part of the group?---Yes, I would have, I think so, yes.

5 Did anyone call you on or around that day to tell you anything about Mr Stevenson?---Not that I can recall, other than this message.

Did you go to the Special Council Meeting?---Most likely I did attend at Council meeting.

10 Did you pay attention to the Lord Mayor's wish for you to attend at the time she specified?---Other than the message, I think there is notice - should have email notifying all Councillors of the Special Council Meeting.

15 Putting that to one side, Mr Yong, because that's a matter for others, did you attend the Special Council Meeting at the time specified by the Lord Mayor in the message?---I think I did attend that meeting, Special Council Meeting.

20 Did you know before you went what it was about?---Can't recall I did but most likely not.

What makes you say "most likely not"? The documents can be returned, Madam Associate, thank you?---If there is a Special Council Meeting, usually Council will send a notice of meeting or agenda of meeting to all Councillors.

25 And that didn't happen this time?---Can't really recall whether it had an email or printed copies but I can't recall what came first.

30 Did you receive papers when you attended the meeting on 1 September 2016 - sorry, 20 January 2016?---On the Special Council Meeting date?

Yes?---Yes, I remember that it was provided on the Special Council Meeting, on the table.

35 What was on the table?---Special Council Meeting minutes, I think there's few pages. If not mistaken, should be a few pages.

Do you mean committee meeting minutes or Special Council Meeting minutes?---It would have been Special Council Meeting minutes.

40 Why?---Because it draw my attention there's only a few pages of documents, only two or three pages.

45 Was it an agenda or was it minutes?---It would be most likely an agenda of meeting, because the meeting hasn't finished yet.

Were there any other papers that you received for the meeting on 20 January 2016?---Not that I can recall

[3.45 pm]

5 What did you understand the purpose for the Special Council Meeting on 20 January 2016 to be?---Appointment of CEO.

Why? Why were you appointing a CEO?---My understanding is there is gap, there's no CEO during that time.

10 What happened to him?---What happened to him? Before?

You say you were being asked to appoint a CEO on 20 January 2016?---Yes.

15 Because there was a gap. So is it correct to think that Mr Stevenson was no longer CEO? What happened to Mr Stevenson?---My understanding is he was not in the Council any more in 2016.

Why not?---Why not? He left. The left the Council.

20 In what circumstances?---In what circumstances? I can't really actually recall what has actually transpired but I think there's - this is unanimous decision for Mr Stevenson to leave the Council between - in the year of 15/16. I recall I think he left in 2015.

25 When you say he left, whose decision was it for him to leave?---Can't actually recall the actual situation. Is it Council unanimous decision in a Council meeting? My recollection is Council meeting.

30 Before you attended the Special Council Meeting on 20 January 2016, what were you told about Mr Stevenson leaving, if anything?---In the Special Council Meeting, I can't recall we discuss about Mr Stevenson. We talk about appointing Mr Mileham.

35 So you remember that but you don't remember anything more about Mr Stevenson?---No.

40 I see. You believe you said that you were provided with an agenda. I will just ask Madam Associate to bring up a document at 9.0207. Do you see there an agenda for the Special Council Meeting on 20 January 2016?---Yes, I do.

Madam Associate, if you could turn the page, please, to 9.0210. I don't have a TRIM for this, Commissioner, I'm sorry. Do you see on the screen, Mr Yong, an attendance?---Presiding, Councillors present, yes, I do.

45 And you're included there?---Yes.

Do you see Ms Smith is acting as minute taker, do you see that?---Yes.

Is it unusual for Ms Smith, who's the Lord Mayor's PA, isn't she?---Most likely she is.

5 You don't know?---I don't - I think she has a few secretaries.

I see. You don't know Ms Smith as one of those?---I can recall that she has a few secretaries at that time, I think two or three.

10 It's usual for people from Governance to take minutes, isn't it?---Yes.

And Ms Smith's not in Governance to your knowledge, is she?---Not that I'm aware of.

15 Madam Associate, if you could turn the page to 9.0211. Do you see there an item and a resolution?---Yes.

Do you recognise these things or these papers that you've been shown as the papers you were provided for the meeting on 20 January 2016?---Can't recall whether this come after or during that meeting.

So you don't know?---I don't know.

25 There's nothing on here about appointing Mr Mileham, is there?---No.

Were you provided with recommendations from the CEO Performance Review Committee on 20 January 2016?---During this meeting?

Yes?---Not that I can recall.

30

In order for Council to make a decision, they need recommendations, don't they?---Yes.

35 Madam Associate, if you could please bring up 9.0213. Do you see there minutes for the Special Council Meeting, 20 January 2016?---Yes, I do.

If you turn the page to 9.0215, Madam Associate, please. Do you see there the attendance page and you're included as attending?---Yes.

40 And you see there 9.21 am, the Lord Mayor declared the meeting open?---Yes.

Can you turn the page, please, Madam Associate, to 9.0216. There's a matter to be dealt with behind closed doors, namely, the CEO Performance Review, do you see that, Mr Yong?---Yes.

45

You see a resolution for Council to endorse the minutes or recommendations of the CEO Performance Review Committee held on Tuesday, 19 January?---Yes.

Do you know what they were?---My understanding is to appoint Martin Mileham following the recommendation from the CEO Performance Review Committee.

5 The motion was put and carried, and you voted in favour of it?---Yes.

Did you vote without having any paperwork relating to the recommendations?---Following recommendation from the CEO Performance Review Committee, yes, based on the recommendation from the CEO Performance Review Committee's decision.

10

And how did you learn about their recommendations? Were you told or was it in paper?---It would be most likely verbal during that Special Council Meeting.

15 What were you told during the Special Council Meeting about the reasons that Mr Mileham needed to be appointed as Acting CEO?---Is to the effect that the committee has reviewed the appointment and now it's bring to the Council for endorsement, to that effect.

20 What were you endorsing? A recommendation to what with respect to Mr Stevenson? With respect to Mr Stevenson, were you endorsing a recommendation?---My understanding is 2016, should be endorsing Mr Martin Mileham.

25 Mr Mileham was appointed to the CEO position in September 2016. You've spoken about Mr Mileham acting in the position as CEO?---Acting.

In January 2016, and you've talked about being asked to make a decision to appoint him as Acting CEO at this meeting on 20 January 2016. I'm trying to find out more about why the Council needed Mr Mileham and what happened to Mr Stevenson. You've told me that Mr Stevenson left, I'm trying to find out more about the circumstances in which you endorsed that, do you understand?---In this Special Council Meeting on 20 January?

30

35 Yes?---This endorsement, my understanding is endorsing Mr Mileham, not Stevenson, Mr Mileham, because it's quite close to each other on the date between Stevenson and connecting between Mileham and may have confused between Stevenson and Mileham.

40 I'm going to show you another document now, Mr Yong, which is at 9.0171?---CEO Performance Review Committee meeting.

See an agenda there, 19 January 2016?---Yes.

45 Madam Associate, if could you turn to the following page at 9.0173. Do you see there something which says, "Minutes of meeting"?---Minutes of meeting of the CEO Performance Review Committee.

Performance Review Committee?---Yes.

Ms Smith is again acting as minute taker, do you see that?---Yes.

5

You're not at this meeting?---No.

You're not a member of the committee?---No, I'm not.

10 Madam Associate, if you could turn the page, please. 9.0174. Do you see some resolutions made by the CEO Performance Review Committee?---Yes.

Some of those relate to Mr Stevenson?---To Stevenson.

15 Have you ever seen this document before?---Would have, but I can recall of the minutes of that Special Council Meeting but not this one.

You don't recall this document?---I don't recall but I would have seen it somehow, some time during that period in 2016.

20

I will just ask you to have a look at the last page before I continue with those questions. 9.0175, please, Madam Associate. Do you see there three more purported resolutions by the CEO Performance Review Committee? Do you see that?---Yes, I'm reading it.

25

All right?---Yes, I've read it

[4.00 pm]

30 Have you ever seen the agenda/minutes that you are looking at now, before today?---If I have read it, some time during that time, this.

Was this document a document given to you at the Special Council Meeting on 20 January 2016?---I can't really actually recall whether it's been attached in that. It most likely would have been attached in that Special Council Meeting document.

35

What makes you say that?---Because it would have been for us to consider with the Special Council Meeting agenda.

40 But you don't know?---I don't, I can't confirm.

Mr Yong, did you vote to endorse recommendations of the CEO Performance Review Committee without knowing what they were?---During Special Council Meeting?

45

Yes?---It would have been discussed around the table.

What did you discuss?---About the CEO Performance Review Committee's recommendation.

5 What were they? What were they, the recommendations that you were discussing?---The discussion based on the agenda on the Special Council Meeting date. I can't recall actually what's been discussed but it's about the appointment of the CEO.

10 So you don't remember what was discussed and the documents that I've shown you so far haven't helped you to remember, is that right?---At this time, I can't recall, yes.

15 Mr Yong, before you voted to endorse the recommendations of the CEO Performance Review Committee, and I'm talking about your vote at the Special Council Meeting on 20 January 2016, did you see some submissions that Mr Stevenson had made about his Performance Review?---At that time, I can't recall I read that submission.

20 Did you receive or did you read a Performance Review or a summary of the findings of Mr Stevenson's 2015 Performance Review?---Not in my recollection on that day, 20 January 2016.

25 Were you told at all during the discussions in the 20 January 2016 Special Council Meeting that Mr Stevenson had resigned?---Can't recall. It would have been to that effect.

Pardon?---It would have been to that effect.

30 What makes you say "it would have been to that effect"?---It was either he resigned or he left or no longer with the Council.

Did you vote on 20 January 2016 to terminate Mr Stevenson's employment?---Looking at the minutes, yes, I did.

35 Why did you do that? Madam Associate, the document can be taken down?---I did it because I rely on the recommendations from the committee, the CEO Performance Review Committee.

40 Those recommendations were made orally to you during the meeting?---My recollection of that meeting, yes.

45 Can you tell me why Mr Stevenson's employment was terminated?---I don't really have a good recollection of that but my understanding is, it's the responsibility of the CEO Performance Review Committee recommending to the Council decision.

So to cast your vote, you relied on what was said out loud at the 20 January 2016 Special Council Meeting?---And relied - - -

And nothing more?---And rely on the Performance Review Committee's recommendation.

5 Which was made to you in person at the meeting?---In the meeting, yes, a group with other Councillors.

Who spoke on behalf of the committee at the meeting?---At the committee meeting?

10

At the Council meeting?---I recall that the Lord Mayor was presiding the meeting.

And she put forward the recommendations, did she?---I believe so, yes.

15 And it was because of what she said that you voted to endorse Mr Stevenson's termination?---She presided the meeting with the recommendation from the CEO Performance Review Committee.

20 And based on what she said, you voted in favour to terminate Mr Stevenson?---Not based on what she said, it's based on the Review Committee recommendation.

25 Mr Yong, you've said that the recommendations were made to you at the meeting and the Lord Mayor spoke on behalf of the committee and she was presiding at the meeting. Did the Lord Mayor communicate the recommendations of the committee to you at the Special Council Meeting on 20 January?---I recall that she presided the meeting but the Chair at that time of the committee was Janet Davidson.

30 Who spoke at the Special Council Meeting?---Who spoke? I think most Councillors did, including Presiding Chair, Janet Davidson. I think Councillor Harley did say a few words.

35 Who made the recommendations to the room on behalf of the CEO Performance Review Committee? Was it the Lord Mayor?---Can't recall whether it's Lord Mayor or it's Janet Davidson as the Chair of that committee, but both spoke.

40 And based on you hearing of the recommendations made by the committee at the meeting on 20 January, you cast your vote to terminate Mr Stevenson?---Based on what I - yes, based on the committee recommendation, I cast my vote.

Based on what you heard at the meeting?---Based on what I - what had been put forward by the committee, I voted, together with other Councillors, yes.

45 What had been put forward on behalf of the committee were oral recommendations, weren't they?---Most likely, yes.

You didn't have any paperwork on which to base your decision, did you?---Not

that I can recall of at that time, we have paperwork.

Mr Yong, the meeting lasted for a little over 15 minutes. Do you have any insight
into who spoke, who else spoke other than the Lord Mayor and Councillor
5 Davidson?---I can't recall who has spoken.

You said others did?---Others, I think Councillor Harley said a few words,
Councillor Limnios said a few words. That's what I can recall.

10 Turning now to another topic, Commissioner.

COMMISSIONER: How much longer do you think you will be?

MS ELLSON: Another hour.

15 COMMISSIONER: Another hour?

MS ELLSON: I think so.

20 COMMISSIONER: In that case, we won't complete Mr Yong's evidence today.
We do have another private hearing at 4.30. It seems like this might be a good
point at which to break in his evidence. Mr Yin, would you have any difficulty
with that?

25 MR YIN: With adjourning now, no, sir.

COMMISSIONER: Thank you.

MR YIN: I do have a difficulty if it was planned to be first thing tomorrow
30 morning that the evidence concludes. I've got a court commitment in Joondalup. I
don't know what intention was or what the schedule is for tomorrow.

COMMISSIONER: We will schedule the resumption of his evidence to fit in,
where we can, with counsel. Are you able to tell me when you will be available,
35 please?

MR YIN: I would be available by 11 am tomorrow.

COMMISSIONER: By 11 am?

40 MR YIN: Yes. It's a 9.30 appearance, it should be reasonably quick.

COMMISSIONER: Thank you for that, Mr Yin. Mr Renton, what about your
availability tomorrow?

45 MR RENTON: I'm available all day, Commissioner.

5 COMMISSIONER: Thank you. I appreciate there are others in the room as well
and so I will adjourn this public hearing shortly and when I do, I will leave it to
you, Ms Ellson, and you, Mr Parkinson, to confer with others in the room to
ascertain what times are available to everyone concerned and I will then make a
decision about what time we resume Mr Yong's evidence. I will now adjourn.

WITNESS WITHDREW

10 **AT 4.14 PM THE MATTER WAS ADJOURNED**
UNTIL WEDNESDAY, 28 AUGUST 2019

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