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INQUIRY INTO THE CITY OF PERTH

PUBLIC HEARING - DAY 101

WEDNESDAY, 4 SEPTEMBER 2019

INQUIRY PANEL:

COMMISSIONER ANTHONY (TONY) POWER

COUNSEL ASSISTING:

MS KATE ELLSON

COUNSEL APPEARING:

**MR GREGORY McINTYRE SC, with MR JASON O'MEARA and
MR NICK MALONE (Mr Reece HARLEY)
CAV. MARIA SARACINI and MR MARTIN TUOHY (MR Martin MILEHAM)
MR SAM VANDONGEN SC and MR ALAN SKINNER (Mr Dimitrios LIMNIOS)
MS ALENA ZORIC (Mr Gary STEVENSON)
MR JOEL YELDON (Ms Janet DAVIDSON)
MS PENELOPE FORD (DR Jemma GREEN)
MR TOBIAS BARRIE (Ms Judith McEVOY)
MR PETER van der ZANDEN (Ms Lisa-Michelle SCAFFIDI)**

.04/09/2019

HEARING COMMENCED AT 10.10 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 I want to apologise to all for the delayed start to this morning's public hearing, unfortunately. The Inquiry was required to conduct an urgent but necessary private hearing.

15 Ms Ellson, do you recall Mr Harley?

MS ELLSON: I do, yes, Commissioner.

20 COMMISSIONER: Thank you. Mr Harley, please come forward and resume your seat in the witness box

MR Reece James HARLEY, recalled on former affirmation:

COMMISSIONER: You remain under your affirmation?---Yes.

25 I will take appearances now. Mr Tuohy.

MR TUOHY: Yes, Commissioner. I seek leave to represent Mr Mileham in the absence of Ms Saraceni, who will be here later on this morning.

30 COMMISSIONER: Your leave continues. Mr McIntyre.

MR McINTYRE: Yes, I seek leave to continue with Mr O'Meara for Mr Harley.

35 COMMISSIONER: Thank you. Mr McIntyre, your leave continues.

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

40 COMMISSIONER: Yes, of course, Mr Skinner.

MR SKINNER: Thank you, sir.

45 MS ZORIC: May it please, Commissioner, I seek leave to appear on behalf of Gary Stevenson.

COMMISSIONER: Yes, of course, Ms Zoric.

MS ZORIC: Thank you, Commissioner.

MR YELDON: Thank you, Commissioner. On behalf of Ms Davidson once again.

5

COMMISSIONER: Yes, of course, Mr Yeldon, thank you.

MS FORD: May it please, Commissioner, Ford on behalf of Dr Green.

10 COMMISSIONER: Thank you, Ms Ford.

MR BARRIE: Commissioner, Barrie on behalf of Ms McEvoy.

COMMISSIONER: Thank you, Mr Barrie.

15

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

COMMISSIONER: Always a pleasure, Mr van der Zanden. Thank you.

20

MR van der ZANDEN: Thank you, sir.

COMMISSIONER: Are you ready to resume, Ms Ellson?

25 MS ELLSON: Yes, Commissioner.

COMMISSIONER: Thank you.

30 MS ELLSON: Mr Harley, as you will recall yesterday's proceedings, I had been through you raising your concerns about the Planning Committee meeting on 13 September 2016 with Mr Mileham?---Yes.

Do you recall that?---Yes.

35 Mr Mileham responded to you by way of letter, do you recall that?---After an email, yes.

Yes?---Yes.

40 27.1095, please, Madam Associate, TRIM 19694.

COMMISSIONER: Thank you.

45 MS ELLSON: Do you see there a letter dated 14 September 2016 from Mr Mileham to yourself?---Yes.

Do you recognise that as a letter Mr Mileham sent to you in response to your

concerns?---Yes.

Yes?---Yes, it was on letterhead and signed.

5 Just take a moment to read through that, please?---Sure. Yes.

I've already asked you a series of questions in relation to your views that Mr Mileham could have or should have spoken up at the meeting. Mr Mileham is suggesting in his letter, is he not, in paragraph 4 that you were present at the meeting and could have spoken up as well, isn't he?---Yes

[10.15 am]

15 Did you speak up?---No.

Can you tell me why not?---Yes. I attended the meeting in order to make an assessment of the behaviour of the committee members and the staff members present without my interference. I wanted to see how the meeting played out and how the decision-making process played out, what kind of questions were asked and statements made.

20 The document can be taken down, please, Madam Associate. What did you see with respect to the behaviour of the committee?---I saw that they voted to defer the item.

25 Is it your view, Mr Harley, that in September and October - indeed, October 2016, the matter was being closely scrutinised?---Yes.

30 By whom?---The matter was being closely scrutinised by the staff members and by the Elected Members.

Including yourself?---Yes.

35 Do you know why the matter was being closely scrutinised?---The delays in the listing of the property and the deferrals back to officer assessment had raised suspicion among some Elected Members that the matter was not being dealt with fairly.

40 And who were those Elected Members?---Myself, Councillor Green and I believe Councillor Limnios.

You had some communications with Councillor Green and Councillor Limnios in the way of SMS messages?---Yes.

45 Madam Associate, if you could bring up, please, 27.3479, TRIM 23381. Do you see here, Mr Harley, a document headed, "SMS extract from Councillor Limnios' iPhone"?---Yes.

From time to time you communicated by SMS with Councillor Limnios on his private mobile number?---Yes.

5 In the left-hand column in the sixth row, do you recognise your telephone number?---Yes.

And it's correctly attributed to your name?---Yes.

10 Will you accept that this is a chart showing messages between yourself and other people, and Councillor Limnios?---Yes.

Madam Associate, if you could turn to page 27.3480. I draw your attention, Mr Harley, to the bottom message on the page?---Yes.

15 "Hi Lily, Reece and Jemma, regarding the heritage matter on Tuesday"?---Yes, to Lily, to Jemma, to Reece from Limnios, yes.

You've read that?---I will, sorry.

20 It appears that - - -?---Sorry, I haven't. I will read it now.

I'm sorry, please do?---Yes.

25 You see there a message purportedly to Councillor Chen, to Councillor Green and to yourself?---Yes.

Do you recognise it as a message that was sent to you?---Yes.

30 It appears, does it not, that Councillor Limnios is encouraging you, among others, to vote in a particular way on this, on the matter concerning the Grand Central Hotel, would you accept that?---Councillor Limnios - sorry, in a particular way, in accordance with the facts, yes.

35 Did Councillor Limnios need to tell you that at that time?---Absolutely not.

Madam Associate, if you could turn to 27.3481. Mr Harley, the first message in the box, 18 September 2016, 8.31 pm?---Yes.

40 A message from yourself to Mr Limnios:

Hi James, the item was deferred at Planning Committee so won't be before us at Council on Tuesday.

45 Do you see that?---Yes.

So it appears Councillor Limnios had made a mistake about what the expectations

were at the time, is that right?---Yes. I had attended as an observer, so I had seen that it had been deferred.

5 Madam Associate, the document can be taken down. There was another Planning Committee meeting at which the matter was considered on 25 October 2016, do you recall that?---I do not recall.

10 There was another meeting in October 2016?---I accept that there was another meeting, yes. I don't recall it.

You did not attend?---I don't recall attending.

15 Do you know if Councillor Limnios and Councillor Green attended a Planning Committee meeting on 25 October 2016 when the item of the Grand Central Hotel was discussed?---I do not recall.

20 Was it something you had arranged with them, for them to attend a Planning Committee meeting after the one you had attended?---I do not recall arranging for them to attend a Planning Committee meeting, no.

Did you attend the Council meeting on 1 November 2016 where the matter of the Grand Central Hotel was dealt with?---I believe so, yes.

25 Can you tell me what happened at the meeting?---I do not recall, I'm afraid.

Madam Associate, if you could please bring up 27.1193. Do you see here, Mr Harley, Council minutes, 1 November 2016, certified 22 November 2016?---Yes.

30 Madam Associate, 27.1197. Councillor Harley, do you see here among the Councillors present, your name?---Yes.

Do you accept you attended the meeting?---Yes.

35 27.1199. Councillor Adamos, it appears - sorry, that's the wrong page, Madam Associate. It's my fault. 27.1205. Do you see here a table described as, "A timeline and summary of the Heritage Listing process to date" for the group of three properties?---Yes.

40 The Motor House, Kastellorizo and the Grand Central Hotel?---Yes, which were H, I and J, if I recall.

45 Yes, and the matter was moved, as we have seen already, from 17 March 2015, April 2016?---Mm hmm.

27.1206, please, Madam Associate?---Yes.

Do you see there, there's some continuing events?---Yes.

An independent heritage consultant, or the Griffiths' report we have seen was obtained?---Mm hmm.

5

And then a Planning Committee, 13 September, Council meeting to be held on 20 September 2016, but that didn't happen, did it, because on 13 September - -
-?---The item was deferred.

10 - - - the matter was deferred?---Yes.

We have, on 1 November 2016, a motion on page 27.1209, TRIM 19699,
Commissioner.

15 COMMISSIONER: Thank you.

MS ELLSON: Do you see here this motion is moved by Councillor
McEvoy?---Mm hmm.

20 And seconded by Councillor Yong?---Yes.

That:

25 *Council propose to include the Grand Central Hotel in the City's
Planning Scheme list, giving the affected owner and occupier a
description, the reasons for the entry and 21 days to make a
submission.*

Do you see that?---Yes.

30

The second part of the motion was that:

*Officers would report back to Council with the results of the
consultation.*

35

And the motion was put and carried, do you see that?---Yes.

And you voted in favour of the motion?---Yes.

40 Thank you, Madam Associate, the document can be removed. Was it your
understanding then that the matter would proceed following on from submissions
from the owners and occupiers being received, and after the Administration
reported back to Council?---That's right.

45 Mr Harley, did you have any concerns about what happened in this meeting that
you conveyed to any other Elected Member?---Not that I can recall.

Madam Associate, if you could please bring up 27.3453. At the top of the page, Mr Harley - I withdraw the question. From time to time did you communicate with Councillor Adamos on his telephone, mobile number ending 179?---Yes.

5 By way of instant message?---Yes.

Do you see here a document purporting to contain instant messages between yourself and Councillor Adamos?---Yes.

10 Do you see a list of participants?---Yes.

Do you recognise as one of them, your telephone number?---Yes.

15 You accept that this document is a list of, or it contains messages between yourself and Councillor Adamos?---Yes.

Mr Harley, I would like you to look at 1 November 2016?---Yes.

20 9.49 pm?---Yes.

Could you read the message to yourself, please?---I will, thank you. Yes.

25 Councillor Harley, I would like to draw your attention to a portion of your message but firstly, can I ask you to recall, do you recall sending the message?---Yes.

30 Can you tell me why you sent it?---Yes, I had concerns about Councillor McEvoy's behaviour in the meeting. Councillor McEvoy defended herself and contended - argued against what I was alleging and I had reached out to Jim to try and explain to him that I was telling the truth. It may help for your understanding that I was sitting on one side of the Chamber next to Councillor McEvoy and Councillor Adamos was sitting on the other side of the Chamber

[10.30 am]

35 The other side of the room?---Yes, you know, from here to the other end of that desk away, it's the size of the Council Chamber, and we were sitting opposite one another.

40 Approximately 6 metres from you?---Perhaps five, yes, and whereas I was sitting to the right of Councillor McEvoy, within 40 centimetres of her, 50 centimetres.

And she was to your left?---She was to my left.

45 Was there anything between you?---No.

You say here, Mr Harley, that:

Councillor McEvoy was recording the meeting. She was reaching into the top left corner of her desk. Her phone was concealed and she was recording the Grand Central item.

5 Do you see that?---Yes.

10 What was it that you saw, Councillor Harley?---I saw Councillor McEvoy's phone was on the voice memo app and, there's a red button at the bottom and I saw that at the beginning of the item, Councillor McEvoy hit record. The phone was under a piece of paper or a small collection of documents stapled in the top left-hand corner of the desk and she was recording the item - recording the discussion around the item. I think at that point Council had not yet voted to record the meetings and make the recordings publicly available.

15 What about available to other Elected Members, were they available to other Elected Members whether they attended a meeting or not?---I'm not sure if I were to have sent an email to the Manager of Governance and requested it, if it would be provided. Perhaps, I'm not saying no, but possibly, but the debate was not publicly available. It may have been available to Elected Members upon request.
20 The purpose of the recording was for the minutes.

The City's recording?---The City's recording, sorry, yes.

25 Mr Harley, if the telephone was under some papers, Mr Harley, how could you tell that it was recording?---Because I saw Councillor McEvoy hit the record button, I saw the movement on the screen to indicate that the recording was occurring.

30 At which point during the meeting did that occur?---At the beginning of the Grand Central item.

You go on to say:

Now I wonder why and for whom she had been doing that.

35 What do you mean by "now I wonder why", just to break that up?---Yes. I wondered why. It was a - I can't remember the word. It was a rhetorical question. I knew the purpose or I had assumed the purpose was to provide the recording to the Elected Member who was not in attendance, which was the Lord Mayor who was on a period of leave.

40 So that was "for whom", in your message? The "for whom" was for the Lord Mayor?---Correct. That was my assumption.

45 Why did you assume that, Mr Harley?---The Lord Mayor was not in attendance at the meeting, the item was about a property which she co-owns. Councillor McEvoy and the Lord Mayor had a friendly relationship. I thought the Lord Mayor would have been interested in the progress of the debate and what was said

and by whom.

You go on to say:

5 *Astounding to hear her lie on the record in the Chamber.*

?---Yes.

10 What did you hear Councillor McEvoy say that you believed was a lie?---Councillor McEvoy denied that she was making a recording. She said something along the lines of, "I wouldn't even know how to do that."

15 So it wasn't anything she said to the meeting, it was something she said to you?---No, that was something that she said to the meeting. I made, I believe, a point of order to the Chair that Councillor McEvoy was recording the meeting and that that was not common or standard practice, mobile phone use in the Chamber.

20 Did you do that before or after the vote was taken?---Before the vote was taken, I believe, during the debate on the item. I believe - as soon as I saw it or within 10 or 20 seconds of having seen it, I raised a point of order with the Deputy Lord Mayor who was chairing the meeting.

Councillor Harley, I've listened to the recording of this meeting?---Okay.

25 And I heard Councillor Limnios open the matter before the Chamber and I heard you speak to the meeting and Councillor McEvoy speak to the meeting. There was nothing in the recording before the vote was taken where you raised a concern about a potential recording of any information that I could hear. Could you be wrong about that?---About the time at which I made the objection, potentially, but not the fact that I did make the objection?

30

Both, so let's address one?---Sure.

35 Could you be wrong about the time?---Yes.

Could you be wrong about raising it?---No.

40 Thinking about it more carefully now that I've raised the content of the recording with you, can you think of when you raised it?---I believe that I raised the point of order during the discussion on the Grand Central Hotel. That is my recollection.

What did you say, Councillor Harley?---I raised a point of order. I said, "Chair, point of order. I can see Councillor McEvoy is making a recording."

45 What, if anything, did you hear Councillor McEvoy say in reply?---Councillor McEvoy denied that she was and said, "I wouldn't even know how to do that."

Do you remember Councillor Chen speaking to the matter at the meeting?---No.

5 The document can be taken down, Madam Associate. Councillor Harley, as the result of some media published at the end of April 2018, you raised some further concerns about the progress of the Grand Central Hotel's listing, did you not?---I do not recall but I accept that I did.

Perhaps it will help if I remind you of the article to which I'm referring?---Sure.

10 Madam Associate, if you could bring up page 27.3605. Do you see here an article by Mr Zimmerman, 29 April 2018?---Yes.

Have you read that?---Yes.

15 Madam Associate, if you could turn the page, please?---Yes.

And the next page?---Yes.

20 The next page, please, Madam Associate?---Yes.

And the next page?---Yes.

25 Thank you, Madam Associate. From time to time, Councillor Harley, did you communicate with Kate Emery?---Yes.

Who is she?---A journalist at The West Australian.

30 And you used your personal mobile telephone number to communicate with her in instant messaging?---It's likely, yes.

27.0231. Do you see here, Councillor Harley, what appears to be activity between two telephone numbers, one being your own; do you recognise that?---Yes.

And another belonging to Ms Emery?---Yes.

35 The footer of the document describes it as being, "Electronic communication extracted" - it doesn't say extracted but it implies it's been extracted from your phone. It's identified as chat 241 between yourself and Ms Emery?---Yes.

40 Do you accept that this document reflects messages between yourself and Ms Emery?---Yes.

45 Madam Associate, could you please move to 27.0244. You see there, Mr Harley, a message at 10.36 am, just under the middle?---Just under the middle, yes.

There's links in a message from yourself?---Yes.

And there's a message at 10.37 am?---Yes.

Which says:

5 *So it seems to me the CEO deliberately delayed the admin
 recommendation to include Lisa's property on our Heritage Register
 until after he was confirmed in the role as CEO.*

Do you see that?---Yes.

10

What had you seen or heard that led you to write that, Mr Harley?---Those were the suggestions laid out in the article linked above. I had not seen or heard anything directly that led me to believe that. Reading the article is what informed my view and the message

15

[10.45 am]

Up until 29 April 2018, had you ever had any discussions with Dr Green about something Ms Battista had told her in relation to the movement of the matter through to Council or to committee?---Before the article? I do not believe so, no.

20

Madam Associate, 27.0245, please. The next message on the previous page is attributable to a time stamp of 10.37 am, do you accept that?---Yes.

25 And your message reads:

*And even then, despite a unanimous Council resolution and a specified
 timeframe for inclusion in the register, he hasn't proceeded.*

30 ?---Yes.

What, as at April 2018, had you seen or heard that enabled you to make that statement, Mr Harley?---The matter had - if I understand correctly, the Council decision was for the property to be advertised as a potential inclusion in the Heritage Register subject to a 21 day feedback period and that had been in the previous year and as at this time it had not yet been added to the Register. So it had been my assumption that there was an unnecessarily long delay and that that delay had something to do with the CEO's employment.

40

Mr Mileham was - - -?---That's my best recollection, I'm sorry.

Mr Mileham was employed substantively in the position by April 2018, wasn't he?---Yes.

45

And it wasn't only up to him to move the matter back to Council, was it?---Yes, it is. The CEO settles the agenda.

In order to have something on the agenda, the officers need to bring it to the CEO, don't they?---The CEO needs to direct the officers to bring it to him. The CEO runs the Administration.

5

The CEO doesn't direct officers on every single matter before Council?---Yes, I accept that.

10 It follows then that Mr Mileham couldn't be expected necessarily to direct the Administration in relation to the Grand Central Hotel, doesn't it?---I accept that, yes. It's a team effort, if you like.

You go on to say:

15 *Disobeying a lawful directive of Council to protect Lisa's personal financial interests.*

At 29 April 2018, 10.38 am, do you see that?---Yes.

20 Does "disobeying a lawful directive of Council" relate to something you say Mr Mileham was doing at the time?---Not doing, should I say, yes.

25 But it relates to Mr Mileham?---It had been my view that he had been responsible for delaying the item coming to Council. I may have been mistaken, but that was the view that I had at the time.

And you attribute it to Mr Mileham wanting to protect Ms Scaffidi's personal financial interest, is that right?---That was my suspicion, yes.

30 It was a suspicion but you hadn't seen or heard anything to that effect?---That's correct.

It wasn't appropriate for you to raise your suspicions about these things with a member of the press, was it?---No.

35

It's not good for the Council for that to have occurred, is it?

MR McINTYRE: It's a very general concept.

40 COMMISSIONER: It is a general question, Ms Ellson, and I'm sure you can refine that question.

45 MS ELLSON: It's not in the Council's interests for unfounded allegations to make their way into the public arena, is it?---The process of journalism occurs before that. If you like, what I was doing was giving a tip or a lead or a hint - - -

COMMISSIONER: What I would like you to do is answer the question,

Mr Harley?---Sure. I believe I've answered the question.

What is the answer?---The answer is that I was giving a tip and I believe that transparency - - -

5

Ms Ellson, please ask the question again and I will Mr Harley listen to it and answer it.

MS ELLSON: It's not in the Council's interests for unfounded allegations to make their way into the public space, is it?---I do not necessarily agree with that statement, no.

COMMISSIONER: Mr Harley, how is it appropriate for an Elected Member to be feeding unfounded allegations to the press?---For the purposes of the journalist investigating and making their own - I guess, making their own investigations. Journalists can FoI documents, they can find out further information and triangulate information and so it was a tip.

Did it concern you that it was unfounded, as you knew it?---Yes.

20

Did you still think it was appropriate, nonetheless, to feed it to the press?---In hindsight, no.

At the time, did it not occur to you that it was not appropriate?---The matters had been - well, no, because the matters had - because I was reciting the matters as they had been outlined in the press article.

25

But you had no foundation for them, did you?---No, based simply on what I had read.

30

On the basis that you had no foundation for them, did you still think it was appropriate for you to, as an Elected Member, to feed that to the press?---I did not feed it to the press. The article had appeared in the press.

Mr Harley, you know, don't you, that I'm talking about what's on the screen in front of me and you at the moment?---Yes.

35

Did you think it was appropriate to feed that to the press?---No.

I don't know how it is that you think in hindsight it's inappropriate but at the time you didn't think the same way?---That's right.

40

Could you explain that to me?---Yes, because it was a suspicion and you do not always operate with the benefit of all of the information in front of you. So I had read the article. It had been based on FoI information that the journalist had that I hadn't, and so it raised a suspicion for me and I communicated that.

45

If it was a suspicion, is there any reason why you couldn't have put it in that way?---Yes.

"I have a suspicion that"?---Yes, yes, I could have, absolutely.

5

You didn't, did you?---No. It was my synthesis, my summary, if you like.

Ms Ellson.

10 MS ELLSON: Mr Harley, you had some further contact with Ms Emery on 18 May 2018 which appears here as well?---Yes.

Do you accept that?---Yes.

15 There's a message, 2.44 pm?---Yes - sorry, that was from Ms Emery, yes.

Yes, who asks:

20 *Have you seen the agenda for next week's Council meeting? Grand Central Hotel Backpackers may finally be listed from the looks of it.*

?---Yes.

You send a message at 2.45 pm in reply, "Ha ha" and another message at 2.45 pm:

25

Takes the Lord Mayor being stood down from duties for it to get on the agenda.

?---Yes.

30

Had you had any discussions with anyone between 29 April 2018 and 18 May 2018 about the progress of the matter?---Not that I can recall.

35 Did you see or hear anything from anyone before sending your message to Ms Emery about the Lord Mayor being stood down to lead you to think that she had anything to do with the progress of the matter between the time it was dealt with by Council on 1 November 2016 and 18 May 2018?---No.

Ms Emery asks you a question:

40

There's a line in there about an administrative oversight that stopped it from progressing back in 2016.

Do you see that?---Yes.

45

And you tell Ms Emery, "That's bullshit and absolute codswallop" at 2.46 pm?---Yes. Yes, I thought it was unlikely.

Had you, between the Council meeting on 1 November 2016 and 18 May 2018, spoken to anyone about the possibility that it was an administrative oversight?---I thought it would be very coincidental, I don't remember having a conversation with anyone about that at the time.

Over the page, please, Madam Associate. 27.0246. This is TRIM 19769, Commissioner.

10 COMMISSIONER: Thank you.

MS ELLSON: :

15 *As the multiple emails from Annaliese to the CEO over many years will prove when it finally reaches the Inquiry.*

Do you see that message?---Yes.

20 Had you spoken to Ms Battista about her involvement in the progress of the Grand Central Hotel between 1 November 2016 and 18 May 2018?---Could you remind me when it was that the Council was suspended, please, the date?

It was March 2018?---And this was a few months afterwards. Yes, I had spoken to Ms Battista about the matter.

25 When did you first do that?---As I gave testimony yesterday, I had spoken to Ms Battista about the matter in the immediate period before the Council's suspension, within a few weeks.

30 You go on to say to Ms Emery at 2.49 pm:

35 *November 2016 Council resolved to include in the Register. Administrative oversight for 18 months? Complete lies. I've seen emails during that period questioning why the listing wasn't being progressed.*

Do you see that?---Yes.

40 Councillor Harley, as at May 2018, what reason did you have for telling Ms Emery that it was complete lies that there had been administrative oversight for 18 months?---Yes. I had seen a spreadsheet which had been prepared, I believe, by Ms Battista, but it had been forwarded to me by Councillor Green, which was listing a number of occasions on which the matter had been referred up to the CEO or, you know, to move through the process, as you say.

45 What date range did that spreadsheet cover, Mr Harley?---I cannot recall.

When did you see it?---I saw it in the weeks preceding the Council being suspended.

5 Was it shown to you or was it emailed to you?---I believe it was shown to me, not emailed to me.

Mr Harley, again, it wasn't appropriate for you to feed this information to the press, was it, the information on 18 April 2018?---I can accept it wasn't appropriate.

10 Why?---I guess I should have let other people do the investigating and let the process take its course without making suggestions of where a journalist could look or without trying to give them information.

[11.00 am]

15 On or around May 2018, Mr Harley, did you become aware that Mr Mileham and Ms Battista were investigating what had happened with the listing?---Did I become aware that they were investigating? Sorry, in May, a few months after we had been suspended did I become aware that they were investigating what had
20 happened? I cannot recall.

I'm going to change topics with you now, Mr Harley?---Sure.

25 Mr Harley, I would like to talk to you now about Mr Stevenson's leaving Council?---Sure.

You were elected in October 2013, is that right?---Yes.

30 So you weren't involved in Mr Stevenson's appointment?---Correct.

Nor with his six monthly probationary review, is that right?---Correct.

But you did become involved in a 2014 review?---Yes.

35 Madam Associate, could you please bring up 14.1445. Mr Harley, do you see there what purports to be a final version of the CEO Performance Review, September 2014?---Yes.

40 Did you understand this process was being undertaken by a man by the name of Geoff Blades?---Yes.

And you relied on Mr Blades to conduct the process?---Yes.

45 And the CEO Performance Review Committee to undertake Council's process?---Yes.

Commissioner, TRIM 14134.

COMMISSIONER: Thank you.

MS ELLSON: Madam Associate, could you please turn to 14.1447.

5

Mr Harley can you see there:

EMs are concerned at the CEO's use of the CCC as a veiled threat. We need to know that the CEO has our backs and guides us respectfully.

10

Do you see that?---Yes.

Are they your comments?---Councillor Limnios' comments.

15

As at September 2014, did you agree with that?---Yes, I - yes.

What do you mean then, in agreeing with "the CEO has our backs"?---No, sorry. So no, can I just clarify the earlier? I agreed in terms of the use of the CCC as a veiled threat, but not in relation to "has our backs", it's not a term that I would use.

20

And you agree that the CEO needs to guide you respectfully?---Absolutely, yes.

Can you tell me how you know or attribute those remarks to Councillor Limnios?---Yes. I believe he said that to me in a direct conversation.

25

When?---Around the time of the Performance Review and this would have been in the Deputy Lord Mayor's office, I believe, if I've got my dates correct.

Was it in the presence of Mr Blades?---No.

30

Had you heard any other Councillors speak in those terms about Mr Stevenson up to September 2014?---The best way I can answer that is to say that I do not recall but I believe that the Lord Mayor shared the concerns. I don't think they were made in those exact terms.

35

What did you see or hear that led you to believe the Lord Mayor shared the concerns or the concerns set out in the first two sentences here?---I believe - I cannot with confidence answer the question, it's five years ago. I can try my best but I fear it might not be accurate.

40

What's your best memory, Mr Harley?---My best memory is a conversation in Committee Room 1 in the presence of all Elected Members where there was a discussion about some concerns about his performance around the time.

45

When?---Around the time of the Performance Review, perhaps in discussing the Performance Review.

So around September 2014?---Yes.

5 Did you hear the Lord Mayor speak in similar terms to that set out in the two sentences we are looking at, at 14.1447?---Yes, but as I said, I don't believe the words "veiled threat" - I think it was more like, "It's always CCC this and CCC that." I think that was the form of words.

10 Madam Associate, if you could turn, please, to page 14.1452. Looking at the last comment here, under the heading, "Summary of comments"?---Mm hmm.

:

In several discussions with EMs mention was made of the CCC. EMs openly critical to GB -

15

Do you read that to be Geoff Blades?---Yes.

:

20 *Of the fact CEO raises this seemingly as a veiled threat and a way of resolving matters. Several EMs clearly very unhappy about this. EMs believe attempts should be made to resolve matters in-house where possible.*

25 ?---Yes.

In September 2014, Mr Harley, were you openly critical about Mr Stevenson raising the CCC?---Yes.

30 Did you speak about it as being a veiled threat?---No.

Did you speak about it as being a way of resolving matters?---No.

35 Did you speak about having a preference for attempts to be made to resolve matters in-house where possible?---Yes. Can I expand on that answer?

40 I'm going to ask you to do that by asking you what you mean?---Thank you. There were two instances or two events which really brought that to my mind and if you could allow me just to expand just a little. I believe I said the CCC thing is still real. I must point out that I did not personally make comments and nor did the CEO ever make a threat to me in relation to the CCC or referring me to the CCC or anything of that nature. It was the disposition that I was referring to. So for example, the way that the Heirisson Island issue turned out and escalated to the WA Police on mounted horseback was an example of what I thought was a conflict
45 which could have been dealt with in a much better way, but escalated very quickly. There was another matter in relation to me communicating with ratepayers which I referenced in the Performance Review, where I had been sending newsletters to

ratepayers and rather than that being resolved through a discussion and perhaps some policy reform or clarity, it escalated to a Standards Panel complaint when I thought that was unnecessary and that complaint was later dismissed. So there were a few instances where I saw the CEO go from zero to 100 very quickly, rather than perhaps working collaboratively or finding paths forward to improve the processes and policies of the City.

Do you accept that the CEO has obligations to report appropriate matters to the CCC?---Yes.

And the CEO has similar obligations to report matters to the Standards Panel?---Yes.

And you would expect the CEO to act in accordance with his obligations in those respects at all times?---Yes.

It's not appropriate for matters to be dealt with in-house if there's an obligation to report them, is it, Mr Harley?---The question's been worded interestingly. It's appropriate to refer matters to the appropriate investigative bodies if that is the assessment that is made.

By the CEO?---My critique is of the assessment that the CEO makes.

Which is a matter for them?---It is a matter for them.

Carrying out their obligations?---It is.

Madam Associate, that document can be taken down. You mentioned a remark that you made with respect to the "CCC thing being still real"?---Mm hmm.

Madam Associate, could you bring up 14.0791. Mr Harley, do you see here a document containing your handwriting?---Yes. Apologies for that.

Do you recognise it as a CEO Performance Review questionnaire that you completed in July 2015?---Yes.

This was a survey conducted by the CEO Performance Review Committee, was it?---Yes

Madam Associate, 14.0798. Mr Harley, do you see here answers you have written in response to a statement:

The quality of relationships with the Lord Mayor, Deputy Lord Mayor and Councillors.

?--- yes.

Just read that to yourself, your answer, please?---Yes, I have.

COMMISSIONER: Could I just have a moment to decipher it, please. Thank you

[11.15 am]

5

MS ELLSON: Mr Harley, you say here:

He needs to have our back and also have a clear -

10 ?---"Vision for how he wants Council to proceed and relate that to us."

So when you said before you wouldn't use the words, "He needs to have our back", you were wrong?---Yes.

15 In terms of Mr Stevenson needing to have your back, does that relate to the CCC and the Standards Panel?---No.

20 What does "he needs to have our back" mean?---It means that he needs to be supportive of Elected Members and support them by ensuring the appropriate policies and practices are in place so that we can do our jobs. It's in relation to the quality of the relationships between the CEO and Elected Members. Collegiality, working together, that kind of thing.

25 It means he needs to be supportive of Elected Members no matter what though, really, doesn't it?---No. I expect the CEO as the Complaints Officer, to deal with complaints.

You go on to say:

30 *During a recent administrative matter he was threatening and unnecessarily dramatic. He seems to get a bit carried away at times. The CCC thing is still real.*

?---Yes.

35

40 Can you tell me what you mean by "the CCC thing is still real" in that context?---Yes. That's in relation to his demeanour and approach to matters. I mentioned there the administrative matter, which was my sending newsletters and communicating with ratepayers and he was quite threatening and quite forceful and quite - I felt that he was threatening and a bit dramatic and that matter ended up being referred to the Standards Panel and being dismissed by them. So it was an example of the demeanour to kind of go 100 miles an hour at something.

45 You didn't like it that Mr Stevenson referred that matter to the Standards Panel, did you?---No.

You didn't like that Mr Stevenson made the suggestion that he would, did

you?---No.

5 You didn't like him, did you?---No, I wouldn't say that. I did get along with him at the beginning of my time on the Council but I did, over that period, form a view that I didn't particularly like him, didn't think he was good for the role.

Because he reported you to the Standards Panel?---No, that was one issue in a multitude.

10 You accepted that Mr Stevenson was a very experienced CEO?---No.

He had 20 years experience as a CEO before coming to the City of Perth, didn't he?---In much smaller Local Governments and out of the State.

15 You would accept that, as someone who had 20 years experience as a CEO in Local Government, he was very experienced?---He was experienced in the context of Queensland, yes.

20 He was better placed then as the CEO to assess matters than you, wasn't he?---Than me? Yes.

The document can be taken down, Madam Associate.

25 COMMISSIONER: Just before you move on, Ms Ellson. Mr Harley, I want to understand one thing?---Yes.

30 When dealing with the referral of a complaint by a CEO to the Standards Panel, if the Standards Panel then dismisses the complaint, you're not saying, are you, that there was no proper basis for making the referral in the first place?---Yes, I am.

You are?---Yes, and the Standards Panel findings laid that out quite clearly.

35 So you don't accept then that it might be right and proper for a CEO, for example, to refer a complaint to the Standards Panel in circumstances where the Standards Panel subsequently does not find the complaint made out?---In a theoretical situation, I agree with you. In this situation, the CEO's assessment was not supported by the Standards Panel.

40 Thank you. Ms Ellson.

MS ELLSON: Commissioner.

45 Do you accept, Mr Harley, that ultimately it was the CEO's responsibility to report matters to the Standards Panel as they saw fit?---Yes.

Madam Associate, if you could bring up, please, the document at 14.0913. Mr Harley, have you ever seen this document before?---No.

The document can be taken down, Madam Associate. Mr Harley, Mr Stevenson made submissions to the CEO Performance Review Committee in relation to his 2015 Performance Review. I would like to read you some remarks that he's made and ask for your thoughts?---Yes.

Mr Stevenson said:

I look back on 2014/15 as a year of great reform and achievement, dedicated Capital City legislation, major organisation structure reform and long awaited boundary expansion are all achievements that City of Perth has wanted and needed for many years. My role in achieving these outcomes was instrumental.

Do you agree or disagree with that?---I disagree with that statement in part.

Can you tell me why you agree?---Why I agree?

In part?---I agree that those things occurred during that period of time, but I disagree as to the - sorry, I've answered the question.

How do you disagree?---I disagree as to the I guess the level of attribution that the CEO makes as if they are his achievements. I think that's a mixed bag.

Mr Stevenson led the Administration through those matters, didn't he, as the CEO?---Yes.

And you agree that they are all achievements that the City of Perth had wanted and needed for many years?---No. With hindsight, no.

As at 2015?---Yes.

Mr Stevenson also says:

Yet from the 2015 review, I conclude that there is an unavoidable reality that almost all Elected Members do not like my personality or my leadership and communication style. I conclude that I do not meet expectations of the majority of Elected Members. I conclude that this is consistent with the 2014 review.

Do you agree or disagree with that statement?---I agree with that statement.

So there was a view among the Elected Members that Mr Stevenson's personality wasn't suitable?---Communication style is my assessment, demeanour, just general approach to the job.

Mr Harley, Mr Stevenson goes on to say:

5 *However, such conclusions are the product of a flawed and very subjective Performance Review. I do not believe that the review is credible or fair, or that it reflects much at all of my broader achievements, capabilities and performance. It certainly does not satisfy contractual commitments.*

10 Do you have enough involvement in the Performance Review process for Mr Stevenson to agree or disagree with his first statement, that the conclusions were the product of a flawed and very subjective Performance Review?---I accept that.

 You accept that that's true?---I agree, yes.

15 Can you tell me why?---Yes. There were no objective measurements, so it wasn't a question of, has the City expanded its revenue or decreased its spending by X amount over X period, yes or no. The questions that we were asked to answer were all subjective, personal observations.

20 So in that sense it wasn't fair to Mr Stevenson?---I agree.

 Mr Harley, in the context of an Elected Member session or a meeting on December 14 or thereabouts 2015, did you say words to the effect that, "I'll be happy to see the back of the bastard"?---Yes.

25 Can you place that in time for me?---At the very end of the meeting.

 When was the meeting?---In December, as you've said. I can't recall exactly when, I'm afraid.

30 And who was there?---I believe all Elected Members were present.

35 Can you tell me why you said it?---Yes. I was absolutely appalled at the way that he had dealt with the Heirisson Island issue. I had begun to be of the view that the organisational restructure that he had led us into was going to be very costly and not effective for the organisation and as I said over a number of Performance Reviews, his communication and interpersonal skills were not, I thought, up to scratch for the role.

40 Was it because he had reported you to the Standards Panel?---It was one of the issues. His assessment of my behaviour had not been supported by the Standards Panel with reference to the Western Australian Local Government Act, so yes, I had been disappointed at the way that he had handled that, particularly in the aggressive nature that he dealt with me and also that, since that period of time, he had put in place no reforms to the policy, even though I'd asked him to do so. So he'd left all Elected Members open to risk.

Reforms to what policy, Mr Harley?---I believe it's the Elected Member
Administrative Support Policy which defines office accommodation, use of
stationary, et cetera. The Councillors' Resource Officer position, which is a joint
personal assistant position, was not mentioned in the policy, though that was a very
5 important role, providing assistance to eight of the nine Elected Members, and so
the way that her position was utilised by Elected Members wasn't defined, nor was
the use of stationary. No limits or guidelines were placed and so it was open to
interpretation and different uses and that's how I, I guess, fell afoul.

10 It's for are the Elected Members to take responsibility for their conduct, not the
CEO, isn't it?---For their conduct, yes. Yes, that's correct. I'd asked the CEO to
propose an amendment to the policy which hadn't occurred.

15 COMMISSIONER: Would this be a convenient time to take the morning break? .

MS ELLSON: Yes, Commissioner.

[11.30 am]

20 COMMISSIONER: Very well. I will adjourn for 15 minutes

WITNESS WITHDREW

(Short adjournment)

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HEARING RECOMMENCED AT 11.47 AM.

MR Reece James HARLEY, recalled on former affirmation:

5 COMMISSIONER: Ms Saraceni, I see that you've replaced Mr Tuohy at the Bar table.

MS SARACENI: Yes, thank you, sir.

10 COMMISSIONER: Yes, Ms Ellson.

MS ELLSON: Commissioner.

15 Mr Harley, after the October 2015 election, did you hear from anyone anything about the possibility the Lord Mayor was going to roll Mr Stevenson afterwards?---Roll him? No.

20 Mr Harley, I would like you to think about the time surrounding the Special Council Meeting held on 20 January 2016?---Yes.

When Council voted on what was going to happen to Mr Stevenson?---Mm hmm.

Did you attend the meeting?---Yes.

25 How were you notified about the meeting?---The Lord Mayor phoned me.

When?---On the evening before the meeting.

30 Do you know what time?---In the evening - in the afternoon or evening, I believe.

35 What did she say?---She said that, "As you know, the CEO's performance hasn't been satisfactory and the CEO Performance Review Committee have met, we have had a chat about it. We have met with Mr Stevenson and we have agreed by mutual consent that he's willing to exercise the whatever clause in his contract to leave the City by mutual consent, and so we need to have a Special Council Meeting tomorrow to ratify that, because it's better that someone moves on quickly, if they no longer want to work for the City. It's better to get it done sooner rather than later", I think was the phrase.

40 And you heard the words, "Better someone move quickly if they no longer want to work for the City"?---"Better that someone be moved on quickly if they no longer want to work for the City."

45 Is it your understanding as a result of what Ms Scaffidi told you that Mr Stevenson no longer wanted to work for the City?---That's correct.

And that the decision was a mutual one?---"By mutual consent" was the phrase,

yes.

You mentioned that you were told that Mr Stevenson was willing to execute a clause in the contract to leave the City?---Yes.

5

Is that what you heard?---Yes.

Were you told which one?---I don't believe so. I believe it related to a pay-out period or an amount.

10

Did you ask or were you told about a potential pay-out amount?---I believe I was told that he would be paid out what he was owed under the contract.

Was there anything else the Lord Mayor said to you during the call?---No, it was a brief meeting.

15

A meeting or a call?---Sorry, it was a brief phone call. We had obviously just fought an election, so it was a brief phone call.

20

Were your views sought by the Lord Mayor during the call?---They were not sought, no.

Did you provide your view to the Lord Mayor on the call?---The best way I can answer that is to say I do not recall a form of words but I did convey my acceptance of the situation.

25

Based on what you'd heard the Lord Mayor say?---Yes, that's right, and also based on my experience of the Performance Review process and my understanding that the feedback about his performance had been generally quite negative. So it did not come as a surprise.

30

That Mr Stevenson no longer wanted to work - - -?---Yes.

Did the Lord Mayor tell you what time the Special Council Meeting would be?---Yes, for the following morning.

35

And you attended at the time she proposed?---Yes.

Were you provided with any materials when you arrived?---Yes, I believe an agenda.

40

Anything else?---No.

Can you tell me from the beginning what happened at the meeting?---Not with great clarity. I remember it being a short meeting, I remember us sitting in our normal positions. I remember the Lord Mayor's personal assistant, Angela Smith, was the minute taker. I remember that the item proceeded quickly.

45

Did you hear anyone speak to Council?---Present to Council?

5 Yes, speak to Council?---Not an Elected Member do you mean, a person making a presentation?

10 Did you hear an Elected Member speak to Council?---The Lord Mayor addressed the item, yes, and I do not recall with clarity but believe that Councillor Davidson perhaps presented to - yes, I believe that Councillor Davidson presented to Council as the Chair of the CEO Performance Review Committee to summarise the arrangement.

15 What did you hear the Lord Mayor say?---I do not recall. I believe that she - she Chaired the meeting in the normal way.

Did she call the item on and let Councillor Davidson speak?---I believe, yes. I believe, yes.

20 What did you hear Councillor Davidson say?---I remember that Councillor Davidson said that there had been a discussion and that it had been agreed by mutual consent that Mr Stevenson leave and be paid out as per the terms of the his contract.

25 Anything else?---No.

Was there any discussion after Councillor Davidson had said that to the meeting?---I do not recall. As I said previously, the meeting was quite brief.

30 When you say "quite brief" can you estimate it in time?---15, 20 minutes perhaps.

35 In 15 or 20 minutes, was what you described Councillor Davidson saying the only thing that was said?---I do not recall. It seems likely by my remembrance of the timeframe that there would have perhaps been space for one or two other people to speak, but I do not recall.

Was a motion moved?---Yes.

40 Do you know what it was?---To endorse the minutes and recommendations of the CEO Performance Review Committee which had the effect of accepting their recommendations, which was to agree by mutual consent for the CEO to leave.

You mentioned you had an agenda when you attended the meeting?---Yes, I believe so.

45 Did you have minutes to endorse?---No, because it was a Special Council Meeting.

So you had no minutes of the CEO Performance Review Committee meeting to

endorse?---Sorry, I do not believe so.

And the recommendations of the CEO Performance Review Committee, was that what was said by Council Davidson?---Yes.

5

Is that what you understand?---Yes.

Other than Chairing the meeting, did you hear the Lord Mayor say anything with respect to the matters Councillor Davidson had raised?---I do not recall.

10

Madam Associate, could you please bring up 9.0207. Councillor Harley, do you see here Special Council Meeting agenda, 20 January 2016?---Yes.

TRIM 17352, Commissioner.

15

COMMISSIONER: Thank you.

MS ELLSON: Madam Associate, could you turn, please, to page 9.0209. Do you see there an order of business, Mr Harley?---Yes.

20

9.0210, Councillors present including yourself?---Yes

[12 noon]

25

Madam Associate, 9.0211. Do you see there the item being dealt with as a confidential one?---Yes.

And for a resolution which perhaps should read recommendation, but it says "resolves"?---Yes.

30

Do you recognise the document that you've been shown as the agenda papers you were provided with for the Special Council Meeting, 20 January 2016?---Yes.

The document can be taken down, please, Madam Associate. My apologies for the delay, Commissioner.

35

COMMISSIONER: There's no need for an apology.

MS ELLSON: Mr Harley, did you vote in favour of the recommendation made by Councillor Davidson?---Yes.

40

Was it an easy vote for you to cast?---Yes.

You had your own concerns about Mr Stevenson, is that right?---Yes.

45

And they informed your vote?---Yes.

And you understood Mr Stevenson wanted to leave, didn't you?---Yes.

And you understood that it was mutual?---Yes.

5 I do apologise for this, I have too many pieces of paper this morning.

COMMISSIONER: That's all right. When you're working with millions of documents, I can understand that problem.

10 MS ELLSON: Mr Harley, did you communicate your satisfaction about Mr Stevenson's leaving the City with Mr Adamos in May 2016?

MR McINTYRE: I wonder why this is relevant, the event's over.

15 COMMISSIONER: Do you wish to be heard in Mr Harley's absence in reply, Ms Ellson?

MS ELLSON: No, Commissioner. I will move on - actually, yes, Commissioner, I'm sorry.

20 COMMISSIONER: You do wish to be heard?

MS ELLSON: Yes, please.

25 COMMISSIONER: In Mr Harley's absence?

MS ELLSON: Yes, please.

30 COMMISSIONER: Mr Harley, I'm going to ask you to be excused from the hearing room?---Sure.

WITNESS WITHDREW.

35 COMMISSIONER: Yes, Ms Ellson.

MS ELLSON: Commissioner, this ties up Mr Harley's feelings with respect to Mr Stevenson and it has the potential to place greater weight on Mr Harley's motivations for wanting Mr Stevenson out, other than just for performance reasons. In my submission, for those purposes, it's relevant.

40 COMMISSIONER: Thank you. Yes, Mr McIntyre.

45 MR McINTYRE: It's clear that Mr Harley agreed with a proposal put by the committee on the basis of his understanding that it was by mutual consent. What motivations he might have had become irrelevant in those circumstances.

COMMISSIONER: Mr McIntyre, normally I would agree with you but this is an

Inquiry and there are matters which the Inquiry knows about which of course you are not privy to. So I'm going to let it continue for a little longer.

5 MR McINTYRE: If it please you, sir. Madam Associate, would you please bring Mr Harley back into the hearing room. Thank you. Mr Harley, please resume your seat in the witness box.

MR Reece James HARLEY, recalled on former affirmation:

10 COMMISSIONER: Mr Harley, in your absence your counsel's objection was heard and determined. Your exclusion from the hearing room is no reflection on you whatever. Ms Ellson.

15 MS ELLSON: Commissioner.

Mr Harley, did you communicate your views as to Mr Stevenson's leaving with Councillor Limnios in SMS messages in May 2016?---Is that Limnios or Adamos, sorry?

20 Limnios?---I do not recall.

Madam Associate, if you could bring up 14.2101. While that's happening, Mr Harley, from time to time did you communicate to Councillor Limnios on his telephone from your private mobile number by SMS?---Yes.

25 ASSOCIATE: You said 14?

MS ELLSON: 14.2101. 24165 is the TRIM.

30 Mr Harley, do you see a message at the top of the page from Councillor Limnios to yourself?---Yes.

Dated 21 May 2016, 10.56 am?---Yes.

35 It appears to copy in a message attributed to Councillor Adamos, 14 December 2015, 6.10 pm?---Yes.

Could you read that to yourself, please?---Yes, I've read that.

40 Underneath that do you see a message from yourself to Councillor Limnios, 21 May 2016, 10.57 am?---Yes.

What do you say?---Yes, that I wanted Stevenson out as much as anyone for what he put me through last year, \$4,000 - - -

45 Sorry, Councillor Harley, firstly, can you slow down?---Sure.

And secondly, can you read what's written there?---Sure. "FFS!"

COMMISSIONER: FFS is an abbreviation, is it?---Yes, it is.

5 MS ELLSON: For what, Mr Harley?---"For fuck sake! I wanted Stevenson out as much as anyone for what he put me through last year" - which was the Standards Panel - "\$4K of legal expenses and all the worry for no reason. Adamos is a slime ball."

10 Can you read the next message to yourself, Mr Harley?---Yes.

Do you see it as a message from Mr Limnios to yourself at 10.58 am on the same date?---Yes.

15 It appears to copy in another message?---It does, yes. I will just read that. Yes.

And the message underneath from yourself to Mr Limnios?---Yes.

21 May 2016, 11 am?---Yes.

20

Have you read that?---Yes.

Mr Harley, you say to Mr Limnios:

25 *Makes my stomach sick to see this. They're so horrible, mate."*

?---Yes.

30 Why did you write that message to Councillor Limnios?---Yes, it was my view at the time. This was the first time that I had seen that Lisa's team were all communicating together in a WhatsApp group and yes, it was, I guess, disappointing language and also to see that they were working collaboratively with one another and trying to gang up and strategise in terms of how to respond if I said something one way or the other. So yes, it does still make me feel sick.

35

Why does it make you feel sick, Mr Harley?---Because - - -

40 Is what's being said hurtful to you?---Yes, and also in light of the fact that Standards Panel complaint came back in my favour. So it was doubly hurtful in that respect.

Going back to - - -?---Can I, sorry, add one more thing? It also led me to believe that perhaps - it's okay, I'll withdraw that.

45 Nothing else?---It made me suspect whether or not the Administration had been updating the Lord Mayor on the progress of a confidential complaint to the Standards Panel and if she had been passing that on to her team.

Going back to the message, 21 May 2016, 10.57 am, the message which is preceded by the abbreviation, "FFS!"?---Yes.

5 Is it correct to think, Mr Harley, that this applies to Mr Stevenson's report of your printing expenses to the Standards Panel?---Yes.

Is it correct to think that this weighed heavily in your mind when you voted the way you did on 20 January 2016?---Yes, the way the CEO treated me absolutely weighed on my mind.

And had greater weight than perhaps other things on your mind at the time?---No. I was very unhappy about a range of things, as I've mentioned previously. This was one of them, and I guess I'm expressing here my confusion that others would be surprised, if you like. It was well-known to other Elected Members that I didn't think greatly of the CEO's performance, for a range of reasons.

The document can be taken down, please, Madam Associate. Madam Associate, could you please bring up document 14.0983. Mr Harley, do you see here a document headed, "City of Perth CEO Performance Review 2015"?---Yes.

Just take a moment to look at it. Have you ever seen this document before?---Yes

[12.15 pm]

25 When?---I know I've seen it recently in terms of these proceedings.

Was this document before you at the Special Council Meeting on 20 January 2016?---No.

30 The document can be removed, Madam Associate. Mr Harley, I'm going to change topics with you now - I'm not?---Okay.

Mr Harley, if you had known that Mr Stevenson's leaving on 20 January 2016 was not mutual, would that have changed your vote?---Yes.

Why?---I would have wanted further explanation and I would have wanted to meet with the CEO before making a decision, but can I add, I may have ultimately voted the same way but I would have wanted further information.

40 Thank you, Mr Harley. I want to talk to you now about Mr Mileham's appointment, Mr Harley. Did you become involved in the process to recruit a permanent replacement for Mr Stevenson?---Insofar as I was a member of the Council at the time.

45 As a member of the Council, Mr Harley, what involvement did you have in replacing Mr Stevenson?---In replacing Mr Stevenson with Mr Mileham? I

participated in Council decision-making and an interview process, that was the extent of it.

5 I would like to talk to you more about the interview process you say you participated in?---Yes.

Can you tell me when that occurred?---No, I do not recall.

10 Can you tell me, in terms of the interview process, what you were involved in doing?---Attending, listening to presentations by Mr Mileham and another party. I believe that we received a résumé or response to Selection Criteria, though I'm not sure. Then we had a discussion after the presentations had been made amongst fellow Elected Members.

15 Is it correct to think you attended presentations for two people?---Yes.

There's evidence before the Inquiry to suggest that second round interviews or presentations occurred on 29 August 2016, would you accept that?---Sure, yes.

20 You indicated that you may have received résumés and Selection Criteria, do you know how many résumés or addresses to Selection Criteria you received?---I believe that we received two bundles from two applicants, one bundle each per applicant.

25 Did you receive anything upon which you could make notes or record your observations or assessment of the candidates?---I do not recall if we received a Selection Criteria matrix or assessment, a template. I don't recall.

30 Madam Associate, could you show the document at 9.0675, please. Mr Harley, do you see the document on the screen?---Yes.

And recognise your handwriting on it?---Yes.

35 Do you recognise it as an interview grid you completed in relation to a candidate for an interview held on 29 August 2016?---Yes.

COMMISSIONER: Just give me a moment to decipher this as well, please?---Would you like me to - - -

40 No, I'll manage. My writing's about the same quality as yours, Mr Harley.

MS ELLSON: Perhaps if you could read it out, Mr Harley?---:

45 *Outstanding detail. Great knowledge of strategy, policy and legislation and how it -*

A little bit slower?---:

knowledge of the City. It is always the way, I think, with incumbent, people acting in the role that they do well in that regard. If you like, there was an assessment to be made about whether or not we go with someone whom we know and know how we work with, rather than going with someone of high quality, but without
5 experience in the City itself. So the assessment was very equal between the two of them in terms of a rating but my assessment of the presentations were different in detail. One was, as I said, safe pair of hands, demonstrated knowledge of context, someone who we knew how he worked and the other presented, you know, an
10 impressive presentation about the opportunities that she would pursue if she were given the role. In terms of presentation, I had assessed that she was a little more eloquent about Mr Mileham.

And impressive?---Yes, but it was marginal.

15 Madam Associate, the document can be taken down, please. Mr Harley, were you given the opportunity to ask questions following on from the first candidate's presentation?---Yes.

The first candidate being the female candidate?---Yes.

20 Did you ask any questions?---I do not recall.

Did you hear others ask questions?---I do not recall.

25 Did you see or hear a candidate answer or speak after the presentation to the Elected Members?---I recall the candidate speaking but I'm sorry, I cannot recall whether or not answers were provided to questions.

30 Is your memory different for Mr Mileham's presentation?---I feel as if Mr Mileham was treated more warmly by the Elected Members. When the female candidate was presenting, she was obviously not someone known to the Elected Members and as an external candidate, I feel as if the interview proceeded in quite a formal way. With Mr Mileham, Mr Mileham provided us all with a badge and there was a bit of laughter and it was a more friendly presentation and a bit warmer.

35 Did you ask questions of Mr Mileham following on from his presentation?---I do not recall.

40 COMMISSIONER: Did you say he gave you a badge?---Yes, a number 1 badge.

MS ELLSON: Hashtag 1?---Hashtag 1, black, red and white. I recall in Mr Mileham's presentation, he was talking about, he wanted the City to be number 1 in A, number 1 in B, number 1 in C, was kind of the theme of his presentation.

45 Did you hear anyone ask questions of Mr Mileham following on from his presentation?---I can't recall.

Following on from Mr Mileham's presentation, was there a meeting between the Elected Members to discuss the candidates?---When Mr Mileham left the room, there was a discussion.

5 Of both candidates?---A discussion about both candidates, yes

[12.30 pm]

10 Did you speak?---I do not recall but I believe I would have, yes - sorry. To answer that question, I do recall that there was a round-robin, so the Mayor who was chairing the discussion asked every Elected Member to provide feedback so in that case, yes, I must have spoken and so must have others.

15 But you don't know? You can't remember?---Well, I remember that there was a round-robin, so I remember that everyone spoke. I do not recall what was said.

How long did the round-robin last?---It would be a guess, half an hour.

20 Was the discussion focused on selecting or making a final determination as to who would be placed in the position?---Yes.

25 Can you tell me what preference you had at the end of Mr Mileham's presentation?---I had ranked the candidates evenly. So I was wanting to hear feedback from others at that point to make a collegiate decision.

Did you hear that feedback?---I did hear that feedback.

Whose feedback did you hear?---All Elected Members' feedback.

30 Which was what?---The majority of Elected Members felt more favourably towards Mr Mileham. It was quite clear to me in the room, in the discussion that quite quickly the majority of members felt more comfortable with Mr Mileham as a choice. Comfortable is a word that I would use to characterise the sentiment.

35 Can you tell me who the majority of Elected Members were?---I believe the decision was unanimous.

You said there was a majority of Elected Members?---Mm hmm.

40 Who - - -?---Yes, I remember the Lord Mayor being very favourable towards Mr Mileham. I believe Councillor Davidson was also favourable towards Mr Mileham and Councillor Adamos, I remember being favourable. I do not remember anything said or expressed by other Elected Members.

45 Can you tell me who was there?---I believe all Elected Members were present.

MS SARACENI: Commissioner, just some clarification in relation to this

discussion, was it immediately post the second round interviews or was it at a separate time?

5 COMMISSIONER: That's a fair point, Ms Saraceni. Can you clarify that, please, Ms Ellson.

MS ELLSON: Yes.

10 I asked you a question earlier with respect to the discussion among Elected Members following on from Mr Mileham's presentation. Can you clarify when the Elected Members were having the discussion we are now talking about?---Yes, I did already answer that and that was the discussion was held immediately after the conclusion of the presentations by the candidates in the same room. They departed the room and then we conducted the discussion.

15 You've spoken about three Elected Members expressing a preference for Mr Mileham?---Yes.

20 But you've also spoken about a majority?---Yes.

Can you tell me who else expressed a preference for Mr Mileham during the discussion?---No other Elected Members that I recall, but I remember no Elected Members discussing a preference for the other candidate, which led me to form the view that the majority were favourable towards Mr Mileham.

25 Were you asked to vote or how did the process work?---There wasn't a show of hands but it was - I think it was part of the round-robin process that people were asked to give their view.

30 Was it your impression at the end of the meeting that there had been an agreement to appoint Mr Mileham to the position?---There had been, yes, an understanding which would then need to be formalised through a Council process.

35 Are you aware that Mr Mileham's appointment was dealt with at a Special Council Meeting on 1 September 2016?---Yes.

40 And you weren't there for that, were you?---I wasn't there? I do not recall. The only reason I missed Council meetings was for travel, so I may have been travelling.

Pardon me, Commissioner, I'm having a folder issue. Madam Associate, if you could bring up page 9.0799, TRIM 17416.

45 COMMISSIONER: Thank you.

MS ELLSON: Do you see here some Council minutes?---Yes.

For 1 September 2016?---Yes.

Madam Associate, if you could bring up page 9.0793. Do you see here you are an apology, Mr Harley?---Yes.

5

Do you accept that you weren't present at this meeting?---Yes.

Thank you, Madam Associate. Mr Harley, did anyone ever speak to you about the proposed salary for Mr Mileham?---No - yes, the Lord Mayor but simply indicated that the payment would be at the top of the band because we are a capital city and that was appropriate.

10

When did the Lord Mayor say that to you?---I do not recall, but it was not in a personal conversation, it was in some kind of meeting, presentation, briefing, in Committee Room 1.

15

Mr Harley, at some stage you raised concerns about the CEO's Performance Review process, is that correct?---Yes, the probationary review process, yes.

Can you what your concerns were?---I believe Councillor Green had raised with me a question about whether or not adequate KPIs had been set for that. My understanding of it is that within the contract there was a clause that stated that within six weeks of the appointment, a set of KPIs needed to be established. That would be used to determine whether or not the CEO had passed his probation and that those KPIs needed to be set by Council and I do not recall, but I recall having a concern about whether or not Council had indeed endorsed those KPIs for the probationary period.

20

25

Was that something that you were discussing with Councillor Green?---Yes.

30

In March 2017?---Yes.

Madam Associate, if you could please bring up page 9.0984, TRIM 17434. Do you see here the tail end of an email?---Yes.

35

Electronically signed by Ms Pember?---Yes.

Madam Associate, could you please turn to 9.0983. Do you see at the bottom of this page, 9 March 2017, at 5.26 pm, an email from Ms Pember?---Yes.

40

Which appears to be to Councillor Green?---Yes.

And above that there's an email from Councillor Green to Ms Pember and Mr Ridgwell, do you see that?---Yes.

45

An email, 9 March 2017, 7.19 pm. Above that, is there an email from Councillor Green to Deputy Lord Mayor Limnios as well as yourself?---Mm hmm.

And a question to Mr Limnios?---Yes.

5 Take some time to read the emails, Mr Harley?---Sure. I'm at the bottom of the page.

Madam Associate, if you could turn the page, please?---Yes.

10 Before I ask you further questions about that, I will ask you to read another string of emails?---Sure.

Madam Associate, if you could bring up 9.1001, TRIM 17440?---Yes.

15 Madam Associate, if could you turn the page to 9.1002 - actually, before you do that, I'm sorry. Do you see or recognise an email from Dr Green to Ms Pember and Mr Ridgwell and you're blind copied into it?---Yes.

And you accept that you received this information?---Yes.

20 From Dr Green at 11 March 2017, 10.04?---Yes.

Madam Associate, if you could turn to page 9.1002?---Yes.

25 Have you read that, Mr Harley?---I think that's from the previous - yes, that was the previous chain.

30 Madam Associate, the document can be taken down for the moment. Mr Harley, is it correct as at 9 to 11 March, you, Councillor Green and Deputy Lord Mayor Limnios were discussing Mr Mileham's Performance Review process amongst yourself?---Process, yes

[12.45 pm]

35 And you were sharing concerns with each other about the process?---Yes.

You weren't talking about his performance?---No.

40 You yourself, what concerns did you have in relation to the process?---My concern was to ensure that feedback was being sought from Elected Members as well as senior staff members, so that we could make an informed decision and I was not confident in the way that matters had been outlined, that feedback was being sought to inform the report that would be provided to us.

45 In the emails you were shown there was reference to a 360 degree review process, is that what you mean?---Yes.

In the emails you saw there was also reference to the use of the an expert

consultant, do you recall that?---Yes.

Did you share that concern?---Yes.

5 Can you tell me why?---Yes. I had formed the view that it would be better practice, best practice for the organisation to use the services of an external consultant when reviewing the CEO's performance.

10 Why?---Because it's a very important job for the Council and frankly, we are not experts and need assistance and I think it assists to have a, if you like, not a mediator but someone to facilitate that process, to some extent independently of the Council, and then present their findings. It's very important, I think, for feedback to be sought from Directors because as Councillors, we are often I think in many ways kept in the dark, not the building particularly often. It's a part-time thing for many Councillors, so getting the feedback of staff members who worked with the CEO on a day-to-day basis is essential to be able to assess their performance.

20 Did you raise your concerns with Mr Ridgwell?---I do not recall. I hope so.

Mr Ridgwell has provided evidence to the Inquiry, Mr Harley, that you called him on 14 March 2017?---Yes.

25 And expressed some frustration that an investigation of an ongoing matter relating to you calling Directors on the informal feedback of the CEO's performance - you were angry that - - -?---Sorry, could you repeat that.

30 Yes. The effect of Mr Ridgwell's evidence is that you called him on 14 March 2017?---Yes.

And were frustrated by an investigation into you calling Directors to obtain informal feedback on the CEO's performance?---Yes.

35 Is that what you were doing?---Yes, that's right.

40 What is it that you were doing?---Yes. I phoned the relevant Directors and I said to them, "You're under no obligation to answer my questions but what is your assessment of the CEO's performance. We are being kept in the dark, we don't have a lot of information here. On the basis of confidentiality, could you just give me a sense of how he's travelling so that we can make an informed decision", and of course that was deemed to be inappropriate.

It was, wasn't it?---It was, yes.

45 And it was inappropriate, not just deemed inappropriate?---No, I don't accept that it was inappropriate. I was trying my very best to get the information that I required to make an informed decision.

A more appropriate course would be to raise the question with the CEO Performance Review Committee, wouldn't it?---Yes, and those concerns had been raised but had been ignored.

5

By you or someone else?---By Councillor Green.

What did you think you could do with the views of the Directors that you spoke to about Mr Mileham's performance?---The soliciting of views was simply for my own benefit, to be able to make a more informed decision about his performance.

10

You were eliciting subjective material, is that right?---Yes.

Because in your view you didn't have enough to base an assessment on, is that right?---I felt very much in the dark, yes.

15

Mr Harley, on 14 March 2017 there was a Council meeting and the key performance indicators and Mr Mileham's performance was the subject of a matter before Council, do you recall that?---Yes.

20

Do you have a memory of what happened at the meeting?---Yes.

Can you tell me what it is?---Yes. The item was presented to the Council. I believe that I moved a motion to extend the CEO's probationary period. I believe that I tried to or did give my view about why that was and that I felt that we had insufficient information to make a decision. That motion was defeated. The substantive motion was then put and Councillors Green, Limnios and I voted against the substantive motion.

25

I will take you through some paperwork before I ask you to elaborate on that, Mr Harley. Madam Associate, if you could please bring up 9.1007. Do you see here, ordinary Council minutes, 14 March 2016, certified 11 April 2017?---Yes.

30

Do you recognise those as Council minutes?---Yes.

35

9.1009, please, Madam Associate. For the transcript, TRIM 17442.

COMMISSIONER: Thank you.

MS ELLSON: Do you see here Councillors present, you're among them?---Yes.

40

Do you accept you were at this meeting?---Yes.

Madam Associate, 9.1011. Do you see there confidential item 13.20 and attachments 13.20A and B, do you see that?---Yes.

45

So it's a confidential item to deal with the CEO probation review, do you accept

that?---Yes.

In terms of the confidential item attachments, Mr Harley, I would ask you to see 9.1018, TRIM 17442.

5

COMMISSIONER: Thank you.

MS ELLSON: Mr Harley, do you see here an employment contract made on 21 September 2016 between the City of Perth and Mr Mileham?---Yes.

10

Did you read the papers before attending the meeting?---Yes.

Had you seen the contract of employment before this meeting?---No.

15

Were you asked during this meeting at all to make any determinations with respect to the contract?---No.

Madam Associate, could you move, please, to 9.1036, the same TRIM.

Mr Harley, do you see here confidential attachment 13.20B?---Yes.

20

Probation review completed by Councillor Davidson dated 7 March 2017?---Yes.

Do you recall looking through that before attending the meeting?---Yes.

25

Madam Associate, page 9.105 - I'm sorry, I will go back to 9.1036. Councillor Davidson has indicated satisfactory performance?---Yes.

9.1037, again satisfactory performance in two categories?---Yes.

30

Page 9.1038. There's a box buried in the A, Mr Harley?---Yes.

Do you see there, "Satisfactory completion" box checked?---Yes.

35

In relation to strategic planning. 9.1039, do you see there the, "Satisfactory completion" box is checked for two criteria?---Yes.

9.1040 a brief assessment?---Sorry, a group assessment did you say?

40

I said brief?---Yes, yes.

9.1041, section C, "CEO self-reflection"?---Mm hmm.

Do you recall reading through Mr Mileham self-reflection item before the meeting?---Yes.

45

Madam Associate, 9.1048, section D, "Comments and overall assessment", do you see that?---Yes.

9.1049, "Probation period reviews completed"?---Yes.

Under the heading, "Employment committee member comments"?---Yes.

5

9.1050, "Qualifying period: satisfactory. Employment Committee member reviewer: Councillor Davidson"?---Yes.

10 So it seems Councillor Davidson was in support of Mr Mileham's qualifying period being completed?--- Yes.

Is that your understanding?---That is.

And was the Lord Mayor of a similar view?---Yes.

15

And you had her performance probation period review documents before you at the same time?---I believe so, yes.

And had she checked all of the, "Satisfactory performance to date" boxes?---Yes.

20

In the same way as Councillor Davidson?---Yes, correct.

I will just ask Madam Associate to bring up 9.1068. Do you recognise the document on the screen, Mr Harley, as the Performance Review completed by the Lord Mayor on 7 March 2017 with respect to Mr Mileham?---Yes.

25

Deputy Lord Mayor Limnios was of a different view to the Lord Mayor and Councillor Davidson, is that right?---That's my recollection, yes.

30 What was his view with respect to Mr Mileham's Performance Review?---My recollection is that it was less favourable.

Sorry, it was?---That it was less favourable but I cannot recall against which of the six KPIs.

35

Madam Associate, if you could bring up 9.1052. Do you see here a probation period review completed by Deputy Lord Mayor Limnios, 7 March 2017?---Yes.

And a check, "Performance not yet satisfactory"?---Yes.

40

Madam Associate, 9.1053, two criteria on the page and both checked, "Performance not yet satisfactory", do you see that?---Yes.

Madam Associate, 9.1054, do you see there one criteria and, "Performance not yet satisfactory" checked?---Yes

45

[1.00 pm]

9.1055, "Probation period review", two criteria on the page, both checked, "Performance not yet satisfactory"?---Yes.

5 And there's an indication, 6 out of 6 underneath the boxes; does that help you to remember Councillor Limnios' view?---Yes.

Did you speak to Councillor Limnios about his view before the meeting on 14 March 2017?---I do not recall. I recall reading this document and understanding his views but I do not recall if I spoke to him about it.

10 It appears that there were no other probation period reviews before the Council meeting on 14 March 2017, will you accept that there were only three done?---Three probation period reviews?

15 The ones that we have gone through?---Yes, there were only three assessments made, and they were the members of the Performance Review Committee.

The document can be taken down, please, Madam Associate.

20 COMMISSIONER: Ms Ellson, how much longer do you think you may be - just a moment, Mr Yeldon - with this witness?

MS ELLSON: Perhaps 30 minutes, Commissioner.

25 COMMISSIONER: Yes, Mr Yeldon.

MR YELDON: I heard a cough and missed the committee the witness referred to these three people as members of.

30 COMMISSIONER: I also heard a cough but I heard it was the Performance Review Committee.

MR YELDON: Thank you, Commissioner.

35 COMMISSIONER: Thank you. If you're going to be another 30 minutes, Ms Ellson, then I will adjourn now for lunch and we will resume at 2.15.

WITNESS WITHDREW

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(Luncheon Adjournment)

45

HEARING RECOMMENCED AT 2.19 PM.

MR Reece James HARLEY, recalled on former affirmation:

5 COMMISSIONER: Ms Ellson, are you ready to continue?

MS ELLSON: I am, Commissioner, yes. Thank you.

COMMISSIONER: Thank you.

10

MS ELLSON: Mr Harley, with respect to the process or the results of the Performance Review conducted by the CEO Performance Review Committee in March 2017, what were your concerns with respect to what was - I withdraw the question. Did you have any concerns about what was presented to Council at the Council meeting on 14 March 2017?---Yes.

15

What were they?---I had concerns that the information that had been presented was a subjective opinion of three Elected Members and that we had had no objective information or assessment and no feedback from any senior staff members of the City, as I had expected would have been the process.

20

After the Council meeting on 14 March 2017, did you raise those concerns with the members of the CEO Performance Review Committee?---Yes, I had raised those concerns with Councillor Limnios.

25

After the meeting?---After the meeting, yes.

When?---In the immediate period after the meeting. I recall discussing the issue at the supper after the meeting.

30

Did Councillor Limnios share your concerns?---Yes.

And he told you as much, did he?---Yes.

35

Do you know if any changes were made as a result of the concerns that you raised?---Not changes in relation to that process.

That process being the - - -?---Probationary review.

40

Probationary review, but there were changes made to the review process?---Yes, I believe that the Council adopted a more rigorous assessment process for the first Annual Performance Review.

By that stage Mr Mileham was a permanent appointment?---That's correct.

45

Mr Harley, I would like to ask you about two more matters concerning the progress of the Grand Central Hotel through the registration process?---Yes.

On or about the Planning Committee meeting on 13 September 2016, did you provide committee members, and/or other members of the Council, with some photographs in their pigeonholes?---Yes.

5

Can you tell me why you did that?---Yes. The Grand Central Hotel had been renovated by the owners, by this point. I had seen images on the website of the Grand Central Hotel that had indicated that the interior of the hotel had been renovated. I posted these images on my Facebook page and was later taken to the Magistrates' Court by Mr Scaffidi for having used them on my social media account. He sued me for \$15,500 for having published those images on my Facebook page.

10

Mr Harley, my question to you was why you provided the photographs to Council?---Yes. I thought that they were important for the Council to have because they demonstrated that the building had been renovated and they in essence showed off the architecture and beauty of the building and demonstrated that it was a building in good condition, worthy of protection.

15

Madam Associate, if you could bring up page 27.3621. Do you recognise this page as a page containing photographs you provided Council on or about 13 September 2016?---Yes.

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27.3622, some more photographs there; did you provide Council with those?---Yes, taken from the website, the hotel website.

25

27.3623. And these?---Yes.

27.3624. And this one?---Yes.

30

Thank you, Madam Associate, the document can be removed. Councillor Harley, following on from your evidence this morning with respect to your assertion that Councillor McEvoy recorded the Council meeting on 1 November 2016, I've had the opportunity to listen to more audio of the meeting myself and the Grand Central Hotel was dealt with as item 6 and the next item, item 7, "Proposed permanent entry to the State Heritage Register of Edith Cowan's house and Skinner gallery" was dealt with next, to finality. Then the next item, number 8, was called on and it concerned a review of the State Government Draft Transport Plan. Some short time later, Councillor Harley, you rose to ask a general question around procedure, a question directed to the CEO and you asked:

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40

Could you please advise if Councillors are able to privately record Council proceedings? I believe I've just seen Councillor McEvoy recording the Council proceedings on her phone. I just witnessed her doing it. So just in regards to meeting procedure, could you please advise.

45

Do you recall that now?---Yes.

Can you tell me whether you rose to make that point at the same time you saw Councillor McEvoy doing what you allege?---Yes.

5

So you had not seen her recording the Grand Central Hotel item, had you?---Yes, that must be true. I rose as soon as I saw the behaviour.

Do you recall how the matter was dealt with?---No.

10

Councillor McEvoy rose to answer your question. Mr Mileham rose to suggest a possible procedural solution. Mr Ridgwell rose to indicate that, "A person must not use a recording device unless a Presiding Member or CEO provided express permission" and he referred to standing order 5.15 which was later corrected by Deputy Lord Mayor Linnios to be standing order 5.15(1), do you recall that?---Yes.

15

You, after that had occurred, said, "Just a statement." You were asked if you had a final question by the Presiding Member, Deputy Lord Mayor Linnios and you said, "Just a statement. I would be happy to sign a legally binding statutory declaration to say that I just witnessed Councillor McEvoy recording the proceedings of this Council meeting without the express permission of the CEO and is clearly in contrast to the Standing Orders of the Council. Happy to sign" - -

20

-

25

And the next word was inaudible, "If that is of any benefit"; do you recall doing that?---Yes.

Did you take the matter any further, Councillor Harley?---No.

30

Can you tell me why not?---Because the matter is one for the Presiding Officer of the Council and I raised the concern.

Do you know if anything else occurred as a result of you raising your question?---I'm not aware of anything else occurring.

35

I'm going to move on now to my last topic for you, Mr Harley. It appears that in June 2017 the Code of Conduct for the Council was amended and bullying provisions were inserted into it. Can you provide some insight into why that occurred?---Yes. I thought that that was the right thing to do. There had been quite a lot of discussion generally in Perth at the time about bullying in the workplace and it was, in essence, a topic under conversation. I was aware that the CEO had some concerns about Elected Members behaviour in relation to Directors, or staff members should I say, and so when the proposal was made to insert the provisions, I wholeheartedly supported them

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45

[2.30 pm]

Up to that point, Mr Harley, had anyone raised with you specifically your conduct toward members of the Executive Leadership Group or staff?---I cannot recall but I believe the answer is likely to be yes.

5

Why?---Because there was - there had been raised a few instances of concern where the CEO or a Director had said that I'd spoken abruptly to a Director. I think it was in relation to the matter of Heritage Perth which was an organisation which was losing its funding.

10

Did you accept that's what you did when you were spoken to?---When I was spoken to? Yes, I accepted that, yes, I'd been frustrated and had spoken forcefully.

What happened as a result - was there more than one instance or just one?---I believe there was just the one instance that I can recall, yes.

15

When you acknowledged you'd been frustrated and spoken abruptly, what happened next?---I believe that the CEO discussed it with me. I think that there was a phone conversation in which he said that that had been unwise, or words to that effect, in terms of my conversation with Director Battista.

20

What did Director Battista have anything to do with you being spoken to about being abrupt?---The conversation that was in question was one where I believe I had spoken abruptly to Director Battista. She was the relevant Director under which the Heritage Perth organisation reported.

25

Mr Harley, do you recall a CEO Inbox and a Communications Protocol being introduced by Mr Mileham toward the end of 2017?---Yes, in December.

Did it change the way you worked as a Councillor?---Yes.

30

In what way?---I think in some ways it improved the transparency of the information that we - sorry, the transparency of the process of answering information. What had gone before was that it had been deemed acceptable for Councillors to ask questions directly of Directors and to get feedback directly. Having it through the CEO Inbox meant that it was more transparent, the flow of information was more transparent and I recall a meeting with the CEO, Mr Mileham, in which he said that in fact I was an enthusiastic adopter of the CEO Inbox, having used it more than most other Elected Members, asking lots of questions.

35

40

Were you satisfied with the response time?---I was sometimes unsatisfied at the response time. Generally, the information provided was timely but sometimes the information provided was not timely and sometimes the information provided was not satisfactory, in that it wasn't actually an answer to the question. I also had a concern that the information wasn't attributed to a particular staff member or Director necessarily, so it was a general response that couldn't be attributed to a

45

particular individual, which made it a bit difficult.

5 In what sense?---In that you couldn't understand where the information was coming from within the organisation. It's useful to understand if different parts of the organisation perhaps have different views or different approaches, but in the past, we had - we would receive a response from a Director and if you had a query, you could take that up with the Director, but now it was coming from a generic inbox and the information was being transmitted, so it was just different.

10 Do you recall speaking to other Elected Members about their use of the CEO Inbox?---Yes. Different Elected Members used it to a different agree. Some were frustrated, as I was, with the lack of timeliness or the quality of the responses and that was mainly the subject matter when I would meet with Mr Mileham from time to time. We would talk about the questions that I had submitted and the answers
15 that had been provided.

Thank you, Mr Harley. That completes my questions for you?---Thank you.

20 COMMISSIONER: Thank you, Ms Ellson. Mr van der Zanden, do you have an application?

MR van der ZANDEN: Yes, I do.

25 COMMISSIONER: In that case, just pause for a moment. Mr Harley, I'm going to ask you to leave the hearing room. Madam Associate.

WITNESS WITHDREW.

30 COMMISSIONER: Yes, Mr van der Zanden.

MR van der ZANDEN: Commissioner, I would seek leave to ask the witness some questions about a topic dealt with just after the luncheon break, concerning this document that he gave evidence that he - - -

35 COMMISSIONER: Please hold on a moment. There's too much paper rustling going on, I can't hear you.

MS ELLSON: I'm sorry, Commissioner.

40 COMMISSIONER: Yes

MR van der ZANDEN: The evidence he gave about a document he put in the letterboxes of Councillors prior to the Planning Committee committee in September 2016.

45

COMMISSIONER: How will that advance the purposes of the Inquiry?

MR van der ZANDEN: What I would seek to ask him about is whether or not that was a usual thing for him to do and if not, why he took that course in this instance, with a view to establishing that this seems to be another instance of where this property was given special attention by him.

5

COMMISSIONER: Do you mean the Grand Central Hotel?

MR van der ZANDEN: Yes.

10 COMMISSIONER: Thank you. Ms Ellson, do you wish to respond to that?

MS ELLSON: In my submission, Commissioner, the witness has already given an answer to the question about why he did what he did in terms of placing the material into the Councillors' pigeonholes. Whether or not that was a usual thing or not, I don't consider will advance the Inquiry.

15

COMMISSIONER: Why do you say that?

MS ELLSON: The question of whether or not it was usual for Mr Harley to put pictures into Councillors' pigeonholes, as I understand my friend wishes to ask, won't go to, or directly to the issue of the Grand Central Hotel specifically.

20

COMMISSIONER: Thank you, Ms Ellson. Mr van der Zanden, in my view your proposed examination may have a very limited value to the work of the Inquiry but I am nonetheless going to give you leave to ask questions on that topic, but please confine yourself to what is necessary

25

MR van der ZANDEN: Yes. Thank you, Commissioner.

30 COMMISSIONER: Thank you. Mr Barrie?

MR BARRIE: Sir, I do not have an application to make.

COMMISSIONER: Thank you. Ms Ford?

35

MS FORD: Nor do I, sir.

COMMISSIONER: Thank you. Mr Yeldon?

40 MR YELDON: Yes, I have an application, Commissioner. I propose there are two areas relevant.

COMMISSIONER: Yes.

45 MR YELDON: Mr Harley was asked by Counsel Assisting whether the CEO Performance Committee's approach to Mr Stevenson was a fair process and he said in the witness box, it was not a fair process and Counsel Assisting went no further.

I got the impression from his evidence that he was saying, because it was not an independent - there was no independent expert accompanying the Performance Committee's work, so I want your leave to explore that topic, in limited terms.

5 Then I propose to do that by taking him to the Lester Blades' report and then the CEO Performance Committee's report to illustrate that essentially those committees, the Lester Blades' committee and the latter committee, essentially did the same thing, that is, they took the vox populi commentary from people and reached a conclusion on those.

10

There was a second area of the witness' evidence and that is that he stated in the witness box, in my submission, without foundation - it was never followed up with him - that the responses to the CEO Performance Committee had been generally poor but I may have not written "generally" down correctly, but that's what I did write down, and that was not explored. Certainly, from my client's perspective, that was not the case, so I want to know why does he say that and it may be the Commission would be assisted if I can confirm with the witness that that's one of his, as he was inclined to do, suppositions without any real foundation.

15

20 So my submission is, both areas will assist the Commission to understand the full effect of his evidence.

COMMISSIONER: Thank you, Mr Yeldon. Ms Ellson, do you wish to respond?

25 MS ELLSON: Commissioner, I have no objection to my friend's application with respect to the first point.

COMMISSIONER: Is what he says right there, Ms Ellson?

30 MS ELLSON: The witness was asked to comment on a passage from Mr Stevenson's response to the 2015 Performance Review, which asserted that the CEO Performance Review process was not a fair one and he did give an answer in relation to that.

35 COMMISSIONER: Yes, and I thought his answer had a number of parts to it.

MS ELLSON: Yes. He also said that it was subjective, Commissioner, and has answered the questions that I believe my friend is now seeking to raise.

40 COMMISSIONER: Yes. My recollection of his evidence is that he did explain, in a reasonably detailed way, why he considered the process to be unfair.

MS ELLSON: In my submission, taking him to a document he admits he'd never seen, the CEO Performance Review Committee report, will not advance the matters of the Inquiry in circumstances where he's already given answers with respect to the process. As it applied to Mr Blades, I make a similar submission.

45

COMMISSIONER: What is that?

5 MS ELLSON: That questions and answers with respect to the Blades' reports, he already having been taken to them and he already having given fulsome answers with respect to whether or not the process was fair and whether or not it was objective or subjective won't advance the Inquiry any further.

COMMISSIONER: Yes, thank you. Is there anything else, Ms Ellson?

10 MS ELLSON: With respect to the questions my friend proposes on the topic of the CEO Inbox - - -

COMMISSIONER: I don't recall him saying anything about the CEO Inbox.

15 MS ELLSON: I'm sorry, I misheard my instructor, Commissioner.

COMMISSIONER: Do you need to confer with Mr Parkinson?

[2.45 pm]

20 MS ELLSON: To the extent that Mr Harley was not asked how he came to the view that the responses of the CEO Performance Review Committee were poor, I accept my friend's submission with respect to asking questions on that limited point.

25 COMMISSIONER: Why do you do that?

MS ELLSON: It will provide context to the witness' answers, Commissioner.

30 COMMISSIONER: Thank you, Ms Ellson. Mr Yeldon, do you want to be heard in reply? You seemed quite agitated there as you were listening to the submissions.

35 MR YELDON: Yes, you've assisted me to understand the evidence, Commissioner. If Counsel Assisting is conceding that that is a subjective assessment, I will withdraw request number 1.

COMMISSIONER: Yes. I was going to rule against you on that one anyway.

40 MR YELDON: Can I say, jolly good, and I await the explanation concerning the second one.

COMMISSIONER: Do you want to say anything about that?

45 MR YELDON: No.

COMMISSIONER: I'm not utterly convinced on the second point, Mr Yeldon,

but Counsel Assisting seems to think there's some value in it so I'm going to give you a limited ability to examine further on that point, not the first.

MR YELDON: Thank you.

5

COMMISSIONER: Thank you. Ms Zoric.

MS ZORIC: Thank you, Commissioner. I have no application to make.

10 COMMISSIONER: Thank you, Ms Zoric. Mr Skinner?

MR SKINNER: May it please the Inquiry, I have no application. Thank you, sir.

COMMISSIONER: Thank you. Ms Saraceni?

15

MS SARACENI: I have no application, thank you, sir.

COMMISSIONER: Thank you, Ms Saraceni. Mr McIntyre.

20 MR McINTYRE: I have no application, other than, there may be an application following what leave has been given for further cross-examination, depending upon how those matters are answered.

COMMISSIONER: Thank you, Mr McIntyre, I understand. Very well,

25

Mr van der Zanden, we will start with you after I've got the witness brought back into the hearing room. Thank you, Madam Associate, would you please bring Mr Harley back into the hearing room. Mr Harley, please resume your seat in the witness box.

30 **MR Reece James HARLEY, recalled on former affirmation:**

COMMISSIONER: Mr Harley, in your absence, a number of applications were heard for leave to examine you. I granted leave to further examine you to Mr van der Zanden, who appears for Ms Scaffidi, and to Mr Yeldon who appears for Ms Davidson?---Mm hmm.

35

Yes, Mr van der Zanden.

MR van der ZANDEN: Thank you, Commissioner.

40

EXAMINATION BY MR van der ZANDEN

Mr Harley, just after lunch you were asked some questions by Counsel Assisting regarding a document that you had, as I understand, prepared and then placed in the letterboxes of Councillors prior to a Planning Committee meeting on 13 September 2016, is that correct?---Yes.

45

Is that something you'd done previously? Perhaps if I can explain: you'd previously put documents in other Councillors' mailboxes about agenda matters?---No.

5 COMMISSIONER: I think it's pigeonholes, not mailboxes?---Yes, pigeonholes.

MR van der ZANDEN: Yes, sorry.

So this was a first?---Yes.

10

And you accept that it's not a usual thing for Councillors to do?---Yes.

You gave some evidence this morning, I recall, that you hadn't - or it may have been yesterday - witnessed any Councillors lobbying in respect to this building, is that correct?

15

COMMISSIONER: This is going beyond what you were given leave to do, Mr van der Zanden.

20 MR van der ZANDEN: It's a question that's directly part of this issue.

COMMISSIONER: It's not what you sought leave for though, was it?

MR van der ZANDEN: It's the question that leads into my - - -

25

COMMISSIONER: It was not what you sought leave for, was it?

MR van der ZANDEN: With respect, Commissioner - - -

30 COMMISSIONER: What is the answer to my question?

MR van der ZANDEN: It's under the topic that I sought to question the witness on.

35 COMMISSIONER: It's not what you sought leave for but as you say, it's connected. I will allow it to go for a little longer

MR van der ZANDEN: Thank you, Commissioner.

40 So would you like me to repeat the question?---Yes.

COMMISSIONER: You should.

MR van der ZANDEN: Repeat the question?---Yes, please.

45

You gave evidence that you hadn't witnessed any lobbying in respect of the listing of this building?---That's correct.

In fact, what you had done was a form of lobbying, wasn't it?---No.

You don't accept that?---Don't accept that, no.

5

Do you accept that you were taking special interest in this property?---I had special concern about the property, yes.

10 And that was because Ms Scaffidi had an interest in it, wasn't it?---Yes, because I was concerned that they were being afforded special treatment, because of her position.

No further questions, Commissioner.

15 COMMISSIONER: Thank you, Mr van der Zanden. Mr Yeldon.

MR YELDON: Thank you, Commissioner.

EXAMINATION BY MR YELDON

20

Mr Harley, in your evidence earlier today you were talking about the Special Council Meeting on 20 January and in an answer to a question posed to you by Counsel Assisting, you said that - words to the effect that you understood the responses to the CEO Performance Committee had been generally poor; do you recall saying that, in your evidence earlier?---No.

25

COMMISSIONER: Just pause for a moment, Mr Harley. Yes, Ms Ellson.

30 MS ELLSON: I object to the question because it's not clear to the witness which year Mr Yeldon was talking about.

COMMISSIONER: Yes, Mr Yeldon, I'm sure you can deal with that.

35 MR YELDON: To put it in context, the Special Council Meeting was where Council voted, on one version, to terminate Mr Stevenson's employment, do you recall that, and it was on 20 January 2016?---Yes, that's correct, and my characterisation of the Performance Review of Mr Stevenson was that it had been generally poor.

40 Yes. Were you involved in that process?---In the Performance Review process?

Yes?---Yes.

45 What was the extent of your involvement?---I was interviewed by Mr Blades, as were the other Elected Members.

I see. At the time, did you know that the responses had been generally

poor?---Yes, that had been discussed.

But not all responses were poor, were they?---No. I characterised them as generally poor.

5

Yes, and that's an assessment by you?---Not unanimously poor, yes.

That's an assessment by you?---Yes, it's my summation of what I had read and heard.

10

And what you understood at the time?---Yes.

Thank you.

15

COMMISSIONER: Thank you, Mr Yeldon. Mr McIntyre, do you make an application now?

MR McINTYRE: No, I do not, sir.

20

COMMISSIONER: Is there anything arising out of those questions, Ms Ellson?

MS ELLSON: No, Commissioner.

25

COMMISSIONER: Very well. In that case, Mr Harley, you're excused for today and I want to thank you for your evidence and your assistance. I will now adjourn for a short time before the next witness is called, to allow the necessary arrangements to be made at the Bar table.

WITNESS WITHDREW

30

(Short adjournment)

HEARING RECOMMENCED AT 3.02 PM

35

COMMISSIONER: I will have the next witness called and sworn or affirmed and then I will hear applications and take appearances. Ms Ellson, do you call your next witness?

40

MS ELLSON: I do. I call Dimitrios Athanasios Limnios.

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

45

MR LIMNIOS: Take an oath.

COMMISSIONER: Thank you. Madam Associate.

MR Dimitrios Athanasios LIMNIOS, sworn:

5 COMMISSIONER: Thank you. Mr Vandongen. .

MR VANDONGEN: Commissioner, I seek your leave to appear on behalf of Mr Limnios. There's an application filed for Mr Skinner and myself dated 23 August 2019.

10 COMMISSIONER: Yes, I'm familiar with it, thank you. Ms Ellson, is there any objection?

MS ELLSON: No, Commissioner.

15 COMMISSIONER: Thank you. Leave is granted. Mr McIntyre, you continue to appear for Mr Harley?

MR McINTYRE: I do, sir.

20 COMMISSIONER: Mr Skinner, you appear, of course, with Mr Vandongen. Ms Zoric, do you continue to appear for Mr Stevenson?

MS ZORIC: Yes, I do, thank you.

25 COMMISSIONER: Ms Saraceni, you continue to appear for Mr Stevenson?

MS SARACENI: Thank you, sir.

COMMISSIONER: Mr Yeldon, you continue to appear for Ms Davidson?

30

MR YELDON: Yes, sir, thank you.

COMMISSIONER: Ms Ford, you continue to appear for Dr Green?

35 MS FORD: Yes, sir.

COMMISSIONER: Mr Barrie, you continue to appear for Ms McEvoy?

MR BARRIE: Thank you, Commissioner.

40

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

MR van der ZANDEN: Yes, thank you, Commissioner.

45 COMMISSIONER: Thank you. Ms Ellson, are you ready to proceed?

MS ELLSON: I am, Commissioner, yes.

COMMISSIONER: Thank you, please do.

EXAMINATION-IN-CHIEF BY MS ELLSON.

5

Mr Limnios, I would like to ask you some questions firstly about the recruitment of Mr Mileham in the position left vacant by Mr Stevenson?---Yes.

10 Were you involved in the process to recruit a permanent replacement for Mr Stevenson?---Yes, I was.

You were a member of the CEO Recruitment Committee?---Yes, I was.

15 And that committee was formed with the same members of the previously named CEO Performance Review Committee?---Yes.

And those members were yourself, Councillor Davidson and who else?---The Lord Mayor.

20 The process to recruit a permanent replacement for Mr Stevenson was internally managed, is that correct?---Yes.

Did you express some concerns at any stage about the pace at which the process moved along?---Yes, I did.

25

Can you tell me when you raised those concerns?---I don't remember exactly but I did recall raising them in terms of whether we were following due process and the best process.

30 Did you make those concerns known to your fellow committee members?---Yes.

Madam Associate, if you could please bring up 9.0357. Do you see there the tail end of an email signed, or electronically signed by Michelle Howells?

35 COMMISSIONER: Just pause there for a moment, Ms Ellson. Mr Vandongen, in case you're not aware, the screen in front of you, and Mr McIntyre also, shows the same picture.

40 MR VANDONGEN: It's a bit small for me. Thank you.

COMMISSIONER: Please continue, Ms Ellson.

MS ELLSON: Councillor Limnios, do you see there an email electronically signed by someone called Michelle?---Yes, I do.

45

An email address at the bottom attributing to Michelle Howells?---That's correct.

Michelle Howells was the Manager of Human Resources at the time?---Yes.

9.0356. Mr Limnios do you see here what appears to be the beginning of an email to yourself, the Lord Mayor and Councillor Davidson?---Yes.

5

"Subject: CEO recruitment"?---Yes.

And there's an indication at the bottom of the page in relation to the advertised salary and the advertised date?---Yes.

10

Madam Associate, if you could go, please, to 9.0355. You see there an email from Ms Testar and she was of Human Resources?---Yes.

To Mr Mianich, copying in Ms Pember?---Yes.

15

And underneath that is a message that appears to have been forwarded from Ms Howells to yourself. It says, "James" at the bottom?---Yes.

And your surname was on page 9.0356, do you accept that?---Yes.

20

Madam Associate, 9.0354. You see here an email to yourself from Mr Mianich and some others dated 13 June 2016, 11.40 am?---Yes.

Just read through that for me, please?---Yes.

25

Mr Limnios, reading this email, do you have a memory of the pace at which the process to recruit a replacement for Mr Stevenson was progressing?---Reasonably quickly.

30

Can you tell me what makes you say that?---Just my memory's sort of coming back with this particular email and we wanted to stabilise the City as soon as possible. I think that was an important part.

Do you accept here that Mr Mianich, Director of Corporate Services, is asking for advertising for the position to be delayed "to allow for adequate time for review and comment from the committee members"?---Yes.

35

He was seeking members' views in relation to that change?---Yes.

40

And he indicated that he believed "the process was too rushed for the appropriate development of the Position Description and the advertisement"?---Yes.

As at 13 June 2016, did you share his view?---I must have sent an email or made some contact with the Lord Mayor because I have subsequently found a message to me that says, "Don't worry about this, Janet has checked it with WALGA and we are following all the protocols and we are doing them correctly." So I must have had some concerns.

45

Perhaps the next pages will assist you, Mr Limnios. 9.0353. Commissioner, this is TRIM 17371.

5 COMMISSIONER: Thank you.

MS ELLSON: You see at the bottom of the page, Mr Limnios, an email from yourself to Councillor Davidson, Mr Mianich, Lord Mayor Scaffidi, Ms Howells, Ms Testar, Ms Pernat, dated 13 June 2016, 1.02 pm?---Yes.

10

You say:

The whole process I feel seems like may need some greater experience and expertise dealing with it, with respect. Has our HR department been involved in employment of a CEO before? Firstly we were sent non-relevant Position Descriptions, the rushing of the process. I'm very concerned that with the high level of attention the City has on it that we are leaving ourselves open for criticism.

15

20 For the sake of completeness, Mr Limnios, the last sentence reads:

As you all know, I am away on City business so I'm looking at emails intermittently.

25 Can you tell me why you say there "the rushing of the process"?---Because I felt like, when Director Mianich was putting the information forward, the fact that there were some mistakes with regards to the Position Description and in general terms, I was used to a professional HR recruitment business handling this and I wasn't confident that this was best practice, and in particular with the attention that the City had at the time.

30

Did you raise your concerns that the choice not to use a HR business didn't appear to be best practice with your fellow committee members?---I think I did. To the best of my knowledge, I did.

35

Did you receive a response?---I can't recall specifically.

Did you end up using a HR business to recruit the replacement for Mr Stevenson?---Not that I remember.

40

Mr Limnios, do you recall the process for the recruitment process being put to a Council meeting?---I do not. I don't clearly remember. There's been a lot of time since then.

45 [3.15 pm]

Madam Associate, if you could please bring up 9.0319. Do you see here some

Council minutes, 7 June 2016?---Yes, ma'am.

Certified, 28 June 2016?---Yes, I do.

5 Madam Associate, 9.0322. You see here Councillors present, among them you?---Yes, ma'am.

You accept that you attended the meeting on 7 June 2016?---Yes.

10 The meeting being the Council meeting?---Yes, ma'am.

Madam Associate, 9.0323, "Confidential late item 17: Chief Executive Officer recruitment process", do you see that?

15 COMMISSIONER: Top third of the page.

MS ELLSON: My apologies, Commissioner?---Yes, I do.

20 So this was a meeting at which the CEO recruitment process was being dealt with?---Yes.

9.0326, a page referring to "confidential late item 17"?---Yes.

25 Madam Associate, 9.0327. Do you see here a report from Ms Howells, Manager of Human Resources, to Council concerning the recruitment process of Chief Executive Officer?---Yes.

30 Madam Associate, 9.0330. 2.1, "Internally managed recruitment process." To assist you, Mr Limnios, please take some time to read through that material?---Thank you. Yes, ma'am.

9.0332, please, Madam Associate. Do you see there, Mr Limnios, some discussion about a salary band?---Yes, ma'am.

35 Just take a moment to read through, "Financial implications" for me. Commissioner, TRIM 17368?---Yes, ma'am.

Have you read through the comments and the motion?---Yes.

40 Madam Associate, 9.0333. Do you see there the remaining part of the motion that was put and carried at the meeting?---Yes, ma'am.

You accept that you seconded it?---Yes.

45 And you voted in favour of it?---Yes, ma'am.

Madam Associate, 9.0332. You see here the second part of the motion:

The City of Perth undertake an internally managed recruitment process.

5 Do you see that?---Yes.

Madam Associate, the document can be taken down. Mr Limnios, as at 7 June 2016 you voted for the City to conduct a recruitment process to replace the CEO by way of an internal process?---Yes.

10

What led you to raise concerns later in June about it being an internal recruitment process?---I didn't think - as it became more apparent, it was a more technical, it was a role that was very important for the capital city and I didn't feel comfortable at the way it was being handled.

15

By the committee?---By the committee, and the advice that we had around us.

Could you tell me in what sense you weren't satisfied with the way the committee was dealing with it?---Every time I would ask a question, I was told that, "No, we have checked it with WALGA and WALGA says that we are doing the right thing." It just - it felt that - it just didn't feel right as the process was going on.

20

Did you speak about or did you ask questions of both Councillor Davidson and the Lord Mayor?---Yes.

25

And did both of them tell you that they had checked with WALGA?---Yes, that they were confident.

Of?---Of following the right process.

30

Did you speak to your fellow committee members about the timing of the process as well, the sense you had that it was rushing?---I don't recall specifically but I may have.

35 What makes you say you may have?---Because of the correspondence that I'd been looking at and the concerns that I recall I had and I was raising them.

Did you have a sense, Mr Limnios, in June 2016, that your fellow committee members were rushing the process?---Yes.

40

Can you tell me what you saw or heard that gave you that impression?---Every time I would ask a question or seek further information, I was told, "Look, that's been checked with - Janet's called WALGA", or "we have spoken to Governance or Michelle. The internal process has handled it, it's all under control" and there was always sort of, "Let's move on", was the feeling.

45

Was the?---Was the feeling that I got. Don't keep delaying.

Did you know why?---Not necessarily.

5 Would it be fair to say that the Lord Mayor was very keen to complete the recruitment process in a short period of time?---She didn't seem to want to waste any time.

What about Councillor Davidson?---The same.

10 What makes you say the Lord Mayor didn't seem to want to waste any time?---Because - sorry, ma'am, what I'd said before that.

I see, and the same for Councillor Davidson?---Yes, ma'am.

15 Councillor Limnios, are you aware of the advertisement being placed in newspapers on 24 June 2016?---I don't remember specific dates but I do recall that advertisements for the role were being placed.

20 While something else happens behind the scenes, Mr Limnios, I'm going to ask you about the interview process?---Yes.

Did you participate as a Panel Member in first round interviews?---I don't recall which round it was but I'm sure that we were involved in the shortlisted candidates.

25 Mr Limnios, evidence before the Inquiry suggests that first round interviews were conducted on Monday, 15 August 2016 and Tuesday, 16 August 2016; will you accept that?---Yes, if the evidence supports.

30 And that Mr Mileham was the last person interviewed in the morning of Tuesday, 16 August?---If that's what the documents say, of course.

35 Mr Limnios, do you accept that as a Panel Member you were present for the first round interviews of candidates on 15 and 16 August 2016?---If the documents say that, I accept it.

Do you have a memory of completing an interview grid or a document?---I've seen it recently in documents that I've been shown.

40 Madam Associate, if you could please provide the witness with a bundle of documents. Madam Associate, do you have a bundle there of documents from 9.0483 to 9.0500? I think my friend at the Bar table has a copy, Madam Associate. Do you have there in front of you a document bearing your handwriting, Mr Limnios?---Yes, ma'am.

45 Do you recognise the first page as an interview grid you completed for interviews on Monday, 15 August, Tuesday, 16 August 2016?---Yes, ma'am.

Just take a moment to flick through those. Can you tell me, Mr Limnios, once you have, whether you have completed interview grids for six candidates?---Yes, ma'am, there's six

5

[3.30 pm]

Were you provided with any instructions, Mr Limnios, about how to use the document?---Upon looking at this, I was told that the way it will happen is that we would each ask a question and that's why I can see that I've put the initials next to the particular questions as to who asked those questions.

10

And JL is you?---Yes, ma'am.

15 And JD is Councillor Davidson?---Yes.

And LS is the Lord Mayor?---Yes.

Can you tell me why you completed the document?---I was just recording information that I was receiving to make an informed decision at the end of the process.

20

And at the time you did that, did you understand that you would have to engage in a comparative process between six candidates?---Yes.

25

What types of observations did you record, Mr Limnios?---About the individual candidates?

Yes?---There was some very good people, good quality.

30

So observations about the way they spoke or what they spoke about, what kinds of things were you writing down?---For example, the lady, Joanna here, I was quite impressed that she had done research into the City, into our Business Plan, where we were heading, what we wanted to achieve. Yes, she was impressive. I remember one of them was the former CEO of the Airport Corporation and I remember being - thinking about what the turn around he was doing there, those sorts of things, ma'am.

35

And the first candidate you're talking about, you describe as, "Absolutely brilliant" on 9.0485?---Yes. I remember reading that. Was that Joanna?

40

On the second page. It relates to the first candidate, yes?---Yes, okay.

Red number 9.0485, Mr Limnios?---I can't seem to find it. I don't think I have it, ma'am. I could be missing a page, Madam Associate. I am missing a page. I am missing a page, ma'am.

45

COMMISSIONER: It's all right, Ms Ellson, I've just given Mr Limnios my page.

MS ELLSON: I see?---Yes. Sorry, this was for - okay - this was for Brad, must have been, because it's not 486 and - sorry, okay, I've got it. For Joanna, yes.

5

You've described her as, "Absolutely brilliant"?---Yes.

Do you accept that?---Yes.

10

I don't need that page again but perhaps the witness could have a full set if there is one available?---No, I don't have that page.

Mr Limnios, is it correct to think that as you considered the candidates, you compared them with one another?---Absolutely.

15

And you made notes so you could look back on them and reflect upon your thoughts as to the suitability of each candidate for the position?---Yes, ma'am.

20

And your notes were taken so you could appreciate the differences between each candidate, is that correct?---Yes, ma'am.

With a view to using those notes to reach a decision on your preferred candidates for a way forward?---Yes, ma'am.

25

Do you accept, Mr Limnios, that any recruitment process the City undertakes, or any Local Government undertakes, needs to be transparent?---Yes, ma'am.

And one of the ways in which transparency is achieved during a recruitment process is for Panel Members to keep records of their observations of the candidates?---Yes, ma'am.

30

And do you agree, Mr Limnios, that the taking of notes allows for someone to review a process, a recruitment process?---For me, it was to review the candidates. That's - - -

35

I see. Do you agree that if someone were to try to review the process, notes would be useful to a person who is reviewing the process?---Yes.

40

Do you agree that if there were no notes taken with respect to comparable candidates, it would not be possible to review the decision?---Yes.

And if the decision could not be reviewed, Mr Limnios, the question of whether or not the appointment was meritorious could not be answered?---Yes.

45

Madam Associate, the documents can be returned. Mr Limnios, with respect to the first round interviews, who collected the documentation for you, do you

know?---I don't remember specifically, ma'am, sorry.

5 In terms of the committee's work with respect to the first round interview process, who was liaising with Human Resources on the committee?---To the best of my knowledge, it was Councillor Davidson.

And is that because she was the Presiding Member?---Yes.

10 Mr Limnios, can you read shorthand?---Not at all.

Mr Limnios, do you agree the first round interviews when you were completing your interview grids, did you see whether or not the Lord Mayor was completing any paperwork?---I don't remember.

15 Mr Limnios, do you agree that if the paperwork or the notes that are taken during an interview process are incomplete, that the decision cannot be reviewed?---Yes.

20 COMMISSIONER: In fairness, it's probably more a case of it being more difficult to review.

MS ELLSON: Yes, Commissioner?---Yes, I would agree, yes.

25 Mr Limnios, following on from the first round interviews, did you participate in a session where two people gave presentations?---I don't remember clearly but if there's documents there that suggest I was, I would have no problem in agreeing.

Let's see what we have. Madam Associate, if you could please provide bundle 9.0672. Commissioner, would now be time for the afternoon adjournment?

30 COMMISSIONER: Do you need an adjournment, Mr Limnios?---If you want to proceed, Commissioner, whatever you think is best, because I know you're running behind. I'm happy to stay on.

35 We will take a 10 minute adjournment.

WITNESS WITHDREW

(Short adjournment)

40 HEARING RECOMMENCED AT 3.52 PM.

MR Dimitrios Athanasios LIMNIOS, recalled on former oath:

45 COMMISSIONER: Yes, Ms Ellson.

MS ELLSON: Madam Associate, if the witness could please be provided with 9.0671, ending 9.0710.

COMMISSIONER: 0610?

MS ELLSON: Sorry, 0710, thank you, Commissioner.

5

Mr Limnios, I will ask you to look through those documents, please, with a view to telling me whether or not your handwriting appears on any of the pages?---No, from what I can see.

10 Mr Adamos - - -?---No, I'm Limnios.

I'm sorry, you are. My mistake. Mr Limnios, were you given any interview grids to complete for the two presentations by candidates for the CEO position?---I don't recall. Obviously if there's documentation that I says that I did, I would agree but from here I don't see that I have had anything.

15

Mr Limnios, can you see any comments attributable to you on page 9.0693, at the bottom of the page?---Yes.

20 Do you recognise those comments as yours?---Yes, it wouldn't surprise - I think so. I can't remember exactly but I remember talking about these sorts of things in general.

25

With respect to Mr Mileham?---I don't remember, ma'am, I'm sorry, specifically.

COMMISSIONER: Just for the benefit of the transcript, Ms Ellson, which comments are you referring to?

30

MS ELLSON: The comments, "Flights direct to London from here. "

COMMISSIONER: That is to the right of the word, "Limnios"?

MS ELLSON: Yes.

35 COMMISSIONER: Thank you.

MS ELLSON: "Create an airline, make a hub out of the Perth. Driving things like this with State Government", you don't remember if that relates to Mr Mileham?---It would have been in that meeting because I can see that it's a candidate's interview. I would say it would.

40

But you don't know?---I don't remember clearly, I'm sorry.

45 The documents can be returned, please, Madam Associate. Following on from - Mr Limnios, do you recall two candidates conducting a PowerPoint presentation at a meeting on 29 August 2016?---I remember PowerPoint presentations, I don't recall if it was two or one candidate.

Was Mr Mileham one of them?---Yes.

Can you tell me who was present?---I think it was the Elected Members.

5

All of them?---I don't recall clearly.

Mr Limnios, who or were the members of the CEO Performance Review Committee responsible for overseeing the documentation created as part of the process for the recruitment?---To the best of my knowledge, it was Councillor Davidson as Chair. She had the most liaising with the people, Michelle.

10

As a member of the committee, didn't you bear some responsibility as well?

15 MR VANDONGEN: I object, responsibility for what?

COMMISSIONER: Yes, and responsibility is a broad term in any event. You will have to be more specific, Ms Ellson.

20 MS ELLSON: Yes, Commissioner.

Mr Limnios, as a member of the CEO Performance Review Committee, did you share some of the responsibility for ensuring that the process was a transparent one?---Yes.

25

And did you share some of the responsibility for ensuring that the appointment was a meritorious one?---Yes.

And did you share some of the responsibility for ensuring that the process could be reviewed?---Yes.

30

Did you share, therefore, in some responsibility to ensure that the documentation was complete?

35 MR VANDONGEN: Sorry, which documentation?

COMMISSIONER: Again, Ms Ellson, there's a need to be specific.

MS ELLSON: Yes. Madam Associate, if the bundle of documents could be returned, please. 9.0671 to 9.0710

40

[4.00 pm]

Mr Limnios, do you see here interview grids filled in by each Council member - I withdraw the question and go back a step. Do you see anywhere here a document which tells you which Elected Members were present for the presentations on 29 August 2016?---No, because - not a document that has all the Elected Members on

45

there. I see documents with some Elected Members' names on there.

But not all?---I don't see all.

5 Can you tell from looking at that documentation who was present for the presentations on 29 August 2016?---I can see there's a reference to Limnios, there's a reference to Harley, there's a reference to Yong, there's a reference to Chen, there's a reference to Adamos and Green.

10 Was the Lord Mayor present for the presentations?---I don't remember.

And the document doesn't help you, or the documentation doesn't help you figure that out?---Which part of the documentation, ma'am?

15 Any of it, Mr Limnios?---I'm sorry, I can't seem to see her name anywhere.

Or Councillor Davidson or Councillor McEvoy, can you see their names?---No.

20 Looking at the documentation, Mr Limnios, can you now tell me who was at the meeting?---I can tell you that I was there, Councillor Harley was there, Councillor Adamos, Councillor Chen, Councillor Green and that's it, I think.

I think you also mentioned Yong?---And Yong, yes, there's Yong.

25 But you don't know if the Lord Mayor was there or Councillor Davidson or Councillor McEvoy?---No.

Do you accept that for the purposes of a recruitment process, it's important to know who is assessing the applicant?---Yes.

30

Mr Limnios, can you see an interview grid completed by yourself for each applicant?---No.

35 Do you see an interview grid completed by Councillor Harley for each applicant at 9.0675, 9.0676?---I see him completing one for candidate Mileham.

At 9.0675 - sorry to interrupt you?---Yes, I do, for both, yes.

40 Do you see an interview grid completed by both applicants by Councillor Yong?---No, I don't see his name as an interviewer anywhere.

Do you see any interview grids completed for each applicant by Councillor Chen?---No, because in the section where it says, "Interviewer", there are no names.

45

Which document are you looking at, Mr Limnios?---I'm looking at all of the documents that you have given me. Apart from Councillor Harley's, all the rest of

them don't have their name in the section which says, "Interviewer."

COMMISSIONER: Sorry, I missed that. Could you repeat that.

5 MS SARACENI: Sorry.

COMMISSIONER: That's all right, Ms Saraceni, you're not well. I just missed the evidence, that's all. Could you repeat that, please, Mr Limnios?---I cannot see the names of Councillors Chen or Yong in any of the, "Interviewer" boxes in the
10 interview grid.

MS ELLSON: Councillor Green's name, do you see interview grids completed by Councillor Green for both presenters?---No, because her name is again not in the "Interviewer" section.

15 Do you see any interview grids for the presenters completed by Councillor Adamos?---The only thing I see is this with Councillor Adamos at the front.

Page 9.0671 isn't related to what I'm asking you about, Mr Limnios. That's a
20 separate page?---Okay, I'm sorry. I don't see his name on here.

Do you accept that the documentation concerning the interview grids is incomplete, Mr Limnios?---Yes.

25 Do you, as a member of the CEO Performance Review Committee, accept some responsibility for that?---No.

Why not?---Because each individual's form was the responsibility of the individual to fill the form out. That's my belief.

30 But you don't know if everyone - you don't know who was there, is that right?---I don't recall clearly who was there. It was quite a while ago.

And you can't say if you were given an interview grid, can you?---No, I can't.

35 What was your understanding of the process for the second round interview?---What I pushed for was that the Elected Members all had the opportunity to meet the preferred candidates. I pushed for that very vigorously as I didn't believe that three of us should be the only people making that final decision
40 and I completed my interview grids thoroughly, as you saw previously.

That was for the first round interviews, Mr Limnios. I'm talking about the two presentations where you say you wanted the Elected Members to meet the candidates?---Yes. Sorry, can you please repeat the question, ma'am?

45 What was the process for the second round presentations, the two presentations?---That the candidates would be given the opportunity to present to

the Elected Members.

5 And in terms of the mechanics of the record keeping, Mr Limnios, what was your understanding of the process?---Whenever we have meetings, there's always a minute taker, so I would have thought there would have been a minute taker there.

It wasn't a meeting process, was it, Mr Limnios? It was an interview process, do you accept that?---It was part of the - yes, part of the process, yes.

10 And part of the CEO Performance Review Committee, you were responsible for overseeing the interview process?---Yes.

And as part of that, you were responsible for overseeing the records kept as part of the process, do you accept that?---Yes.

15 Mr Limnios, as someone responsible for overseeing the records kept for the interview process, do you consider that the documentation in front of you now is a complete record of what occurred at the presentations on 29 August 2016?---No, ma'am.

20 As a member of the CEO Performance Review Committee then, accepting as you have that you're partly responsible for the record keeping, do you accept that you're partly responsible for the documentation being incomplete?---No, I don't.

25 That's not reasonable, is it, Mr Limnios?---I think it is.

Mr Limnios, from looking at the documentation in front of you, are you able to compare the assessments of each presenter?---Partly.

30 You accept that you can't complete a comparison, do you?---Yes.

And do you accept that because you can't complete a review, you can't determine whether or not the appointment - I withdraw the question. Do you accept that because you can't complete a review, that the process is not transparent?

35 MS SARACENI: Commissioner, I object.

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

40 MS SARACENI: No. It's in relation to the witness being asked in relation to using hindsight or - - -

COMMISSIONER: Ms Saraceni, this should be heard in the absence of the witness.

45 MS SARACENI: Sorry.

COMMISSIONER: Mr Limnios, I will have you excused from the hearing room just briefly?---You want me out?

Yes, please. I'd like you to leave the room?---Yes, sir.

5

Thank you. You may leave your glasses there.

WITNESS WITHDREW.

10 COMMISSIONER: Yes, Ms Saraceni.

MS SARACENI: My objection, sir, is in relation to the question being asked, whether it's questions being asked as to what his views were contemporaneous at the time or in hindsight.

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COMMISSIONER: Yes. Ms Ellson.

MS ELLSON: I didn't understand the witness to be confused by the question but I can certainly clarify the point for the transcript, Commissioner.

20

COMMISSIONER: Yes. Very well. Just so we don't have the witness out again, how do you propose to do that?

[4.15 pm]

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MS ELLSON: By prefacing my questions with the request that the witness consider the documentations in front of him as at 29 August 2016.

COMMISSIONER: Yes, placing it at a point in time?

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MS ELLSON: Yes.

COMMISSIONER: Ms Saraceni, will that address your concern?

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MS SARACENI: Yes, thank you, sir.

COMMISSIONER: Mr Yeldon, were you about to rise?

40 MR YELDON: If the question's being put on a positive basis, that this is the complete record, then I do have a concern. There's been no evidence from the witness that it is a complete record and he would appear to me to be in a position to know whether it is or not. That is my concern.

COMMISSIONER: He may or may not. We haven't got that far yet, have we?

45

MR YELDON: No, but the question is positively being asked, "Is this sufficient".

COMMISSIONER: Thank you, Mr Yeldon.

MR YELDON: Thank you.

5 COMMISSIONER: Ms Ellson, do you wish to respond to that?

MS ELLSON: No, Commissioner. I don't accept the objection.

10 COMMISSIONER: Madam Associate, would you please bring Mr Limnios back into the hearing room. Mr Limnios, please return to the witness box.

MR Dimitrios Athanasios LIMNIOS, recalled on former oath:

15 COMMISSIONER: Thank you. In your absence, two objections were heard and dealt with and I want to make it clear to you that your exclusion from the hearing room is no reflection on you, whatsoever?---Thank you, sir.

Ms Ellson.

20 MS ELLSON: Yes.

Mr Limnios, based on the documentation in front of you, do you accept that as at 29 August 2016 you could not complete a review or a comparison, I'm sorry, between the candidates who made presentations on that date.

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MR VANDONGEN: I object. Who could not complete a review? Is it a review later on?

30 COMMISSIONER: I understand. The question needs to be asked with more precision, Ms Ellson. We are coming to the end of the day anyway, so perhaps that's a reason why there are so many difficulties at this point in the day.

MS ELLSON: I do apologise, Commissioner.

35 COMMISSIONER: I'm not seeking an apology from anyone. Ms Ellson, can you indicate to me, please, how much longer you will be with Mr Limnios?

MS ELLSON: On this topic or in total?

40 COMMISSIONER: In total.

MS ELLSON: Probably another two hours, Commissioner, at least.

45 COMMISSIONER: What I propose to do, unless anyone at the Bar table has any difficulty, is adjourn this to 10 am tomorrow morning and we will be able to complete Mr Limnios' evidence before lunch, am I right.

MS ELLSON: Hopefully, Commissioner.

COMMISSIONER: Are there any housekeeping matters from anyone at the Bar table.

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MR VANDONGEN: Not from me.

COMMISSIONER: Thank you. The only other point to observe, Mr McIntyre, is that this Inquiry has obviously taken years off your life, you look so many younger and better.

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MR MALONE: That's right, Commissioner. There's certainly a housekeeping issue from Mr Harley's point of view, I seek to appear on his behalf.

COMMISSIONER: Of course. Very well, I will adjourn until 10 am tomorrow morning. Thank you.

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WITNESS WITHDREW

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**AT 4.19 PM THE MATTER WAS ADJOURNED
UNTIL THURSDAY, 5 SEPTEMBER 2019**

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