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INQUIRY INTO THE CITY OF PERTH

PUBLIC HEARING - DAY 119

TUESDAY, 1 OCTOBER 2019

INQUIRY PANEL:

COMMISSIONER ANTHONY (TONY) POWER

COUNSEL ASSISTING:

MR PHILIP URQUHART

COUNSEL APPEARING:

MS JENNY THORNTON and MS BRENDA POWELL(MR Jimmy ADAMOS)

MR JOSHUA FETHERSTONHAUGH (MS Lisa SCAFFIDI)

MR GREG 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 PETER MARIOTTO and MS ELLEN JURY(MR Dimitrios LIMNIOS)

MS PENELOPE FORD (DR Jemma GREEN)

HEARING COMMENCED AT 09.34 AM:

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

10 Before I begin, there are two matters I need to deal with. The first is to make an order for the suppression of certain information and I will deal with that first.

15 Pursuant to section 19B(5)(c) and (d) of the Royal Commissions Act 1968, which has effect pursuant to section 8.20 of the Local Government Act 1995, the Inquiry Panel orders that publication of any personal information of any person referred to during the evidence given, or contained in any documents displayed during public hearings of the Inquiry during the period 1 October 2019 to 9 October 2019 is prohibited.

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

Just so that I'm clear about it, the second matter that I will deal with now is a direction in respect of Mr Adamos' evidence. I will make the direction and then I will have Mr Adamos come forward and take a seat in the witness box. I will have
30 him sworn or affirmed, whichever he prefers, and then I will hear applications and take appearances.

The direction is as follows: I direct that during Mr Adamos' evidence that the only persons who will be permitted to remain in the hearing room are the legal
35 representatives of those persons who have been given leave to appear and be represented. So that would include, for the sake of clarity, not just those at the Bar table but any assistants, whether they be legally qualified or not, who are in the public gallery and who are rendering assistance to those who are at the Bar table. This direction does not exclude officers of the Inquiry.

40 Mr Urquhart.

MR URQUHART: Thank you, sir. Before I recall Mr Adamos, if I can just say one thing arising from the evidence last Friday.

45 COMMISSIONER: Yes.

MR URQUHART: And I will deal with it in this way, sir: last Friday, which was 27 September, during the course of her evidence, Mrs Janet Davidson stated that with respect to a potential financial interest she had with Perth Fashion Festival arising from her acceptance of free tickets in 2015, and then again in 2016, she was advised by Governance, and more precisely by Mr Mark Ridgwell, that she did not need to declare any interests.

Mrs Davidson wasn't able to say when she was advised of that and in what circumstances, though she recalled it might have been after 9 August 2016 Ordinary Council Meeting and it might have been advised to her orally.

Sir, Mr Yong gave similar evidence regarding his failure to declare his financial interest with the Perth Fashion Festival in 2017, a declaration which he had made the previous year. With respect to that evidence of Mr Yong, Inquiry investigators were able to locate email correspondence between Mr Yong and Mr Ridgwell on 10 October 2016 which could be seen as supportive of Mr Yong's evidence and sir, for the record, that material was at 16.0945-16.0947, TRIM number 24889.

COMMISSIONER: Thank you.

MR URQUHART: I showed those emails to Mrs Davidson, as she was CCed in on them, but she could not recall reading them and was therefore unable to say if that was the reason why she did not declare a financial interest in 2017 with respect to either the Hopman Cup or Perth Fashion Festival sponsorship applications when they were called before Council. Just a reminder, sir, those sponsorship applications were considered by the Council at its ordinary meeting on 6 June 2017. Mrs Davidson participated in both those items and made no declarations of any interest.

Upon Mrs Davidson testifying last Friday that you she believed she had been told orally by Mr Ridgwell post 9 August 2016 that she did not have a financial interest in any matter before Council involving the Perth Fashion Festival, Inquiry investigators listened to the audios of Ordinary Council Meetings where a discussion of this matter may have occurred. Commissioner, the only audio that may be of relevance was that of the Ordinary Council Meeting on 6 June 2017. When Councillors at that meeting were declaring their interests regarding items before that Ordinary Council Meeting, at 10.54 through to 11.22 of that Ordinary Council Meeting, the audio of which goes for nearly three and a half hours, the following occurred - sir, is this is TRIM number 21340, being the audio.

The then Lord Mayor stated this interest as follows:

I have one which is 13.6, the Telstra Perth Fashion Festival, for tickets and attendances at last year's festival. I'm on the board. I don't receive any payment for that but are - it's relating to the tickets from last year.

Councillor Davidson can then be heard on the audio saying this:

Could we just check with Governance in terms of TPF?

5 It would seem Mr Ridgwell answered as follows:

Through the Chair, the only individual assessed is the Lord Mayor in her capacity as a patron.

10 Sir, I should state this, that if in fact Mrs Davidson was asking whether she had a financial interest regarding the Perth Fashion Festival, then there may well be an explanation as to why Governance would advise that she did not and that is because, based on the values of the Perth Fashion Festival tickets she had received, which she declared on her Gift Declarations, and they are found at 16.6375, 6377
15 and 6379, those amounts would not have triggered the minimum amount which would have required a declaration of a direct financial interest, or a financial interest arising from the Perth Fashion Festival being "a closely associated person" with Mrs Davidson.

20 There is, however, evidence before the Inquiry that the actual value of those tickets was significantly more than the estimated values that Mrs Davidson had stated on the Gift Declaration Forms. So to such an extent that it would appear that she did have a financial interest with respect to the Perth Fashion Festival from September 2015 onwards, which was still ongoing as of the Ordinary Council Meeting on 6
25 June 2017, and if that is the case, then that would have required a financial interest disclosure. I note that Mr Yeldon is not present in the hearing room. I will ensure that he will be advised of those matters I have raised as soon as possible, some time today.

30 COMMISSIONER: Thank you, Mr Urquhart.

MR URQUHART: But at this point in time, sir, unless Mr Yeldon has an alternative view, I don't propose recalling Mrs Davidson to question her regarding that.

35 COMMISSIONER: Thank you. You can let me know what Mr Yeldon's view is when it's made known to you.

MR URQUHART: Thank you, sir. That was the only matter I needed to clarify
40 before I call now, Jim Adamos and I've noted, sir, Mr Adamos is in the back of the hearing room.

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

MR ADAMOS: Take an oath, please.

COMMISSIONER: Thank you. Madam Associate.

MR Jimmy ADAMOS, sworn:

5

[9.45 am]

COMMISSIONER: Thank you, Mr Adamos. I will now hear applications and take appearances, starting with you, Ms Thornton.

10

MS THORNTON: Thank you, Commissioner. I appear with Ms Powell and seek your leave to represent Mr Adamos.

COMMISSIONER: Thank you. Is there any objection, Mr Urquhart?

15

MR URQUHART: No, there's not, nor with the subsequent applications that are going to be made.

COMMISSIONER: Thank you, Mr Urquhart. Leave is granted, Ms Thornton. Mr Fetherstonhaugh.

20

MR FETHERSTONHAUGH: Thank you, Commissioner. I seek leave to appear on behalf of Ms Scaffidi.

25 COMMISSIONER: Thank you, leave is granted. Mr McIntyre.

MR MCINTYRE: Yes. I appear with Mr O'Meara for Councillor Harley.

COMMISSIONER: Thank you, Mr McIntyre, leave is granted. Ms Saraceni.

30

MS SARACENI: I appear on behalf of Mr Mileham, with your leave, sir.

COMMISSIONER: Thank you, leave is granted. Mr Mariotto?

35 MR MARIOTTO: May it please, I seek leave to appear for Mr Limnios.

COMMISSIONER: Thank you, leave is granted, Mr Mariotto. May I just indicate to those counsel at the Bar table that if they wish to have those assisting them today come forward and take a seat at the Bar table, there seems to be plenty of room for that.

40

Mr Urquhart, when you're ready.

MR URQUHART: A rare occasion indeed that there should be plenty of room here, sir.

45

COMMISSIONER: It's a little startling, Mr Urquhart.

MR URQUHART: Yes, it is.

5 Mr Adamos, just quickly by way of background, I know you've given this evidence before, but you were elected in October of 2011 for the first time with the City?---That's right.

And then re-elected in October of 2015?---That's correct.

10 Then you were still a Councillor when the Council was suspended in March of last year?---That's correct.

Mr Adamos, are you aware that I'm going to ask you some questions today regarding Councillors' obligations to disclose financial and other interests with
15 respect to sponsorship applications?---Yes, I'm aware of that.

Have you had an opportunity of looking at some material that had been provided to your legal representatives the week before last?---Yes, I have.

20 That's good. Mr Adamos, unless I say otherwise, my questions will be confined to the Inquiry's Terms of Reference period which is 1 October 2015 through to 1 March of 2018?---Sure.

With respect to that time frame, can I ask you what you understood your
25 obligations were when disclosing gifts you had received in your role as a Councillor?---Sure. Any gift that was \$50 or under we wouldn't have to disclose. \$50 to \$300, we would have to disclose and then \$300 and up was prohibited, you couldn't accept that one.

30 In what circumstances could you not accept a gift that was above \$300?---I think in all circumstances you couldn't accept any gift.

Were you aware of - I don't expect you to remember the actual regulation, but there is a regulation 12 in the Local Government (Rules of Conduct) Regulations
35 which states and I quote:

A Councillor must not accept a prohibited gift from a person who is undertaking or seeking to undertake or who it is reasonable to believe is intending to undertake an activity involving a Local Government discretion.
40

Were you aware of that regulation that actually placed a limit on what gifts could be accepted if they were defined as prohibited?---A Local Government discretion?

45 Yes?---What does that mean?

So that means if Council, in your case, had a discretion or could or could not allow

a matter before it that involved the person or organisation who had provided the gift. A good example of that with respect to this subject matter is in fact a sponsorship application?---Yes, okay. Yes, I'm aware of that.

- 5 Were you also aware of what the regulations said if there were two or more gifts with a combined value which came to between \$50 or \$300 within a certain period?---That's right, there was something about it over six months.

Yes?---Yes.

10

And in that case then, so for example, if you had two gifts that were \$30 each that you received in the six month period, that brought it to \$60, it was your understanding that then became a notifiable gift?---That's right.

- 15 And then the same thing if, say, those gifts were worth \$160 each and you received them within a six month period, that takes it beyond the \$300 limit?---That's right.

- 20 So, Mr Adamos, can I ask you this then, and it may well be a hypothetical for you, but say you received one gift worth \$160, and then you received another gift from the same person or organisation within a six month period that was also worth \$160, would you - firstly, did you ever come across that situation, to your recollection?---I don't recall. It may have happened, but I don't recall.

- 25 If it had happened, what would you do then with that second gift?---I would have - well, I would have probably not accepted it if that had happened but I would have needed some kind of guidance from the Administration to say, you know, "Keep in mind you've actually accepted a gift earlier." I was kind of, quite reliant on them to give me that advice from time to time.

- 30 So you would say it was a dual responsibility then, for you and then for Governance?---That's right.

To determine whether you could accept that or not?---That's right.

- 35 Again, with that timeframe I referred to, what was your understanding of when an Elected Member had a financial interest in a matter?---If they had a financial interest in a matter, they couldn't preside - they couldn't stay at the meeting, they would have to excuse themselves.

- 40 What gave rise to whether a Councillor had a financial interest or not, to your understanding?---Well, if you'd had any kind of benefit or gift or you were advantaged in some financial way that was over \$300.

- 45 Was that your recollection, that it was an amount of \$300?---I remember if it was over \$300, that's right.

Did you understand the difference between a direct and indirect financial

interest?---Not really, no. I mean, I always kind of just saw them as more or less, I suppose - I don't remember whether I did or not at the time.

5 I know we are concentrating on gifts and in particular, tickets with respect to the questions I'm asking you but were you also aware that there was something called a proximity interest?---That's right.

Yes, that gave rise to - - -?---Yes.

10 I'm not particularly interested in that?---Yes, I remember that.

And did you also know what an impartiality interest was?---An impartiality one was one where you didn't have any value of a benefit, so there was no dollar value to it but by some association to, say, the sponsorship application you had an
15 impartiality interest. That's how I understood it so, for example, if I was on the board or was a board member or I knew the applicants by friendship or something like that.

Did you understand for an impartiality interest, whilst you had to make a
20 declaration, you could still participate - - -?---That's right.

- - - in the meeting?---That's right.

Can I just ask you what your personal understanding was of a Councillor who had
25 declared an impartiality interest but felt that that interest was so great they really ought to excuse themselves; were you aware of whether a Councillor was allowed to do that or not?---I'm sure a Councillor was able to do that.

You're sure that they could do that?---Yes, I'm sure that they could, if the
30 relationship is ever too close, perhaps.

Was that incumbent upon the Councillor to raise that or the Council or
Governance?---Probably more the Councillor because he would understand the
35 nature of the relationship between, say, the applicant and the Councillor themselves.

Can you recall ever seeing that happen at a Council meeting that you attended?---I
myself have actually excused myself from a Council decision because at one point
40 I remember there was a tender and I'd actually excused myself because I think one of the people that was tendering was the brother of my employer.

I see?---So I left.

So you declared an impartiality interest, did you?---That's right.
45

And then you felt your impartiality interest was so great that you ought to excuse yourself?---That's right.

But of course, it all depends on the decision of the Councillor, doesn't it?---That's right.

5 And you felt in that instance, it would be not appropriate for you to remain?---That's right.

Because of that close connection?---Mm hmm.

10 Is that the only other example?---That's the only one I can remember clearly now.

I know we are getting a bit sidetracked here?---That's okay.

15 But I interested about this impartiality interest that Councillors had. Have you ever been at a meeting where you've seen someone make an impartiality interest declaration and thought, well, that person because of their connection to the matter, ought to voluntarily exclude themselves?---I never thought about it. Usually when a Council meeting starts, like at the beginning when you declare all your interests, there's a lot of, I suppose, commotion and attention and there's a lot of activity going. I never thought much about it at the time. I was always kind of, 20 I suppose, more concerned in my own interests at the time, than some other member.

25 Mr Adamos, did you understand what it meant under the Local Government Act if someone or an entity or an organisation was "a closely associated person" with an Elected Member?---A closely associated person I always thought was somebody who was the family member or you were closely related either through - like through, you had a business together or somebody closer that was - yes, somebody very, very close, like a family member or perhaps you had a business with them.

30 Did you also understood it could extend to someone or an organisation who has provided gifts to an Elected Member over a certain period of time?---No, I wouldn't have thought that.

35 There's no criticism if you don't recall that - - -?---No, I wouldn't have thought so.

- - - because you're not alone in not having a recollection about that?---No.

40 Who would you regard as responsible for ensuring Councillors knew about that part of what "a closely associated person" meant?---While my role as a Councillor was never a full-time role, so I was always reliant on - I understood it was kind of my responsibility but I relied on some advice from Administration, from Governance, from those people to kind of continually educate us on this process because during a period there, it was very confusing.

45 Is that period of time when it was very confusing in or around March of 2016?---Definitely, it was around that 16 - that kind of 16/17 period.

5 We will get to that in a moment but firstly, can I ask you, I do know that
Councillors had to declare gifts that they had received but I want to know from you
at a time when a Councillor has a financial interest in a matter, did you know how
long that Councillor had to declare that financial interest at meetings?---I didn't
know. No, I didn't know at the time. I would have only guessed 12 months.

10 Again, would you be reliant on Governance to inform you of that?---I would
definitely, yes.

Do you recall voting on sponsorship applications with respect the to the annual
Perth Fashion Festival?---Yes

[10.00 am]

15 Can you recall how you voted with respect to those sponsorship applications?---I
think I was always supportive of them - yes, I was always supportive of them.

20 Why was that?---It was an event that was really specifically targeted towards the
retailers so it was something, I suppose - it was about the City of Perth, it was
about supporting the retailers and I was always - you know, we had some good
success stories out of Perth Fashion Festival internationally with some of the local
designers that participate in it and I thought it was a good, I suppose, forum for
that.

25 And do you recall whether there were some Councillors who were strong
supporters of that particular event?---I think everyone was - I think every
Councillor was kind of pretty supportive of it over my time.

30 Some more than others?---I think kind of generally, everyone was pretty
supportive. I know there were some times there were some that weren't but that
was probably in around - later on in time but most of my years at Council,
everyone was generally supportive of it.

35 I appreciate that?---Sorry.

But were some more supportive than others, of that category that supported it?---I
wouldn't think so. I think everyone was pretty equal.

40 What about someone who was a board member of the Perth Fashion Festival, was
that Councillor more supportive of it, and that would be perfectly reasonable if that
was the case? You know who I'm referring to?---Yes, it's the Lord Mayor you're
referring to. I don't know. I would say more supportive but we all were
supportive, but I don't know.

45 Councillor Davidson, was she one that was clearly a strong supporter of the Perth
Fashion Festival?---She had been there longer, she had seen it for a longer period

of time, so I would say yes.

Did you attend the Perth Fashion Festival with tickets that had been provided by the organisers?---Yes, I had.

5

Can you recall what years?---During my first years of Council, I attended like a number of them, up to 15, and then when I got re-elected in 15, 15 and the years after that, during 17 I don't think I went to any Fashion Festival events. During 16 I probably did and during 15 I would have. So it kind of had lessened over time.

10

And plus some other years prior to 2015?---That's right.

Getting back to March of 2016 when you indicated earlier that it became quite complicated?---M'mm.

15

What was that a result of?---I don't know exactly what it was a result of. There was - I just remember how the whole thing started is that we were at a committee meeting and it was the CEO who said, "Look, you know, we have got to start re-looking at ticketing and how this all works. There's been changes by the Department of Local Government" and it kind of just started during the beginning of 2016. There was a lot of discussion about whether tickets were gifts or gifts were considered to be tickets or whether we could vote on things. I think it was just one of those evolving things at the start of 2016. I don't remember specifically the actual event that happened.

25

Do you recall some reports that were handed down by the Public Sector Commission into the supply of free tickets to government bodies for events that they had respond sword?---Yes, I remember there was a report on it, yes.

30

Can you remember whether - there were actually two reports, one that was specific the Healthway and then there was another report which was handed down in February of 2016 which looked at all government agencies?---I remember there was the reports, I don't remember exactly what was in them, but I remember the reports.

35

I gather from your evidence that you've just given that you then did understand that these changes that were being introduced meant that Councillors who had received tickets to events that the City had previously sponsored might not be able to participate in considering sponsorship applications for those same events, is that your recollection?---Probably not at the beginning of 16. At the beginning of 16, it was just this - it was this kind of complex time. I wouldn't have thought, though, the beginning of 16.

40

What about March of 2016?---I wouldn't have thought that then.

45

In that case, I just want to show you something, some messages that were posted on the WhatsApp Team that the Lord Mayor had created?---Sure.

You know what I'm referring to there?---Yes.

5 I think you've been shown messages to and from that group in the past?---Yes, I have.

Madam Associate, if we could have a look at 14.0179, TRIM number, sir, 13609.

10 COMMISSIONER: Thank you.

MR URQUHART: What I want you to look at, Mr Adamos, is the first full message we see there that starts, "Yes, Janet is right" towards the top of the page?---Yes.

15 And we see the cursor that Madam Associate's using on the screen?---Yes.

COMMISSIONER: Could we have that enlarged, please, Madam Associate, so those who don't have access to a screen close by can see it.

20 MR URQUHART: So that's from the then Lord Mayor on 24 March 2016?---Yes, I see this.

:

25 *Yes, Janet is right. Gifts equal hospitality and tickets and in case some of you still don't get that, if you voted on events and attended them in the past you well could have voted with a financial conflict. This is no joke.*

30 Then there's another line in that message that's not particularly relevant to the message that the Lord Mayor is conveying to the others in the WhatsApp group?---Mm hmm.

Okay? Then we see one from Ms McEvoy's phone:

35 *Agree. I've just posted on Team.*

And then Ms Scaffidi sends another message:

40 *Saw it, thank you. Report is miles away we are hearing. Think there's realisation of big implications.*

Now I just want to draw your attention to the next one that starts, "Good example", that Madam Associate has got the cursor there, do you see that:

45 *Good example. You all voted to support Christmas Pageant then attend party and Pageant with your family. You voted with a conflict,*

same with ballet, opera, PIAF -

Which I understand is Perth International Arts Festival?---Mm hmm.

5 :

The list goes on and on...

10 And then indeed, right at the bottom now, there's a message from yourself, do you see that?---Yes.

:

15 *Team, I agree with Judy's sentiments, we need to let admin do their job.*

20 That goes on to the next page but why I wanted to draw your message to your attention, because it would seem then that you would have read those messages that preceded it?---That's right.

Does that help your recollection as to when it was that - at about the time you became aware of what it all meant?---It seems so by looking at it, yes, I would have been aware of it then.

25 Yes. In fact, I will go on to the next page because it looks like that will actually confirm your evidence. So 0180, Madam Associate. Councillor Green was raising something it seems, because you continue:

30 *We don't need to bring the media into this. Jemma's plan is to drop all of us into it. You need to understand this. This is a huge issue and as Lisa has said, we have voted and accepted tickets.*

Then I will draw your attention to the next sentence:

35 *We have been conflicted hundreds of times.*

Okay?---Mm hmm.

40 I stress, as I have stressed to other Councillors who have given evidence, or ex-Councillors, this is no criticism of the fact that there were Councillors who may well have had conflicts in the past because it didn't really emerge until around this time of the connection between acceptance of tickets through sponsorship arrangements and the fact that that could give rise to a conflict. Were you aware then that this conflict was of a financial interest type?---I wasn't aware exactly
45 what kind of type it was, all I was aware of at that point was that there was discussions going on about it, that there was research being done on it by the Administration to finally land somewhere. So at this point, at the beginning of 16,

I thought there was a lot of work going on about where this would eventually land but I didn't know we'd landed anywhere at that point.

5 Do you recall a briefing session that was conducted at or about 24 March of 2016?---I don't recall the briefing session.

10 That's fine. Thank you, Madam Associate, that can come down. Getting back to Gift Declaration Forms now, Mr Adamos, prior to March of 2016, had you completed - obviously you had completed Gift Declaration Forms?---Yes.

Not with respect to tickets but for other sorts of gifts?---Sure, before 16, yes.

15 Do you accept it was important that an accurate value be given of the gift that had been received by the Councillor?---That's right.

And the reason for that is pretty obvious, isn't it?---That's right.

20 We need to know whether it's a gift that needs to be declared, whether it's a notifiable gift or whether it's a prohibited gift?---That's right.

Do you agree with that?---Yes.

25 Who do you say, Mr Adamos, and it can be more than one person, but who do you say was responsible for ensuring the details on Gift Declaration Forms were correct and accurate?---Obviously myself, we had a personal assistant, Cecilia, so she would help prepare the form for me. So she'd make enquiries with the organisers or whoever to work out sometimes what the value would be and Governance as well, just to be sure that we had to submit the form or didn't have to submit the form.

30 So when you talk about value, are you talking about just with respect to tickets or any gift that you would receive?---Any gift because I remember once I was given a book by an organisation, something do with a Chinese event, I've forgotten what it was but it was a book and I had no idea about the value. So Cecilia at that time, I think, made contact with the organisers and tried to ascertain the value.

Do you agree with me that sometimes it might be hard to actually find out the value of the gift?---Yes, definitely.

40 And other times it could be relatively easy?---That's right.

45 So in those circumstances, what do you do, for example, if you received a bowl or a vase that you couldn't really Google to find out the price or value?---I'd actually give it to Cecilia and ask her to try and contact the people that gave it to me and, "Can you just try and get somewhere as to what this may cost", that's what we would do.

Can I ask why it was that you got her do that rather than you do it yourself?---It was just timing. I wasn't there full-time, trying to keep down a job and other things, so it was just the time factor.

5 What about with respect to tickets to events, particularly where there might be a range of prices in the tickets?---Yes. Again, Cecilia would be the one that would prepare the Gift Declaration for us. She would do her research as to, I suppose, what the value would be and usually that would come from the invitation. So if an invitation came in, she might say to a Councillor, you know, "Others have declared
10 this and this is what's come up on the invitation." I remember towards the end, there was a period of time that some - I think it was the opera or the ballet, would actually say that, "The value of this ticket would be equivalent to", you know, \$200 or something like that. So it was good towards the end because some of the organisers would actually write at the bottom what they thought the value was.

15 But if they hadn't done that, would you provide advice to Cecilia - Cecilia or Celia?---Cecilia, yes.

Cecilia, what you thought the value of the ticket might be?---I guess sometimes I
20 would have, when we couldn't come up with an amount, yes.

Okay?---Sometimes I would.

Just on that subject matter - I will just pause there while this is dealt with,
25 Mr Adamos, so it's not a distraction. Our records seem to show that you did attend the 2016 Perth Fashion Festival?---Okay.

[10.15 am]

30 So did you personally know one of the Perth Fashion Festival's organisers, a Mariella Harvey Hanrahan?---Yes, I knew her.

How would you describe your relationship with her?---It was good. I like Mariella and she was good for the Fashion Festival. I knew her only through the City and I
35 think our relationship got closer over time.

Would you describe yourselves as friends?---Probably more acquaintances, just business acquaintances. That's how the whole thing started.

40 Okay, but did you eventually become friends?---No, it was just always - I suppose, I like the lady and it was just an acquaintance, that's all she was.

Can you recall how it was that you acquired the free tickets to the 2016 Perth Fashion Festival, and bear in mind now at this stage the City had to do away with
45 the sponsorship arrangement in which part of the agreement for the sponsorship included the provision of a number of free tickets, okay?---I think in 16 - I don't know if this was right or wrong but I think in 16's tickets, if there was any tickets

in 16, it may have been based on a decision in 15, on an application that happened in 15 or if that didn't happen, even if I asked for me or they were offered to me, I don't remember.

5 I think it might be the latter explanation?---Okay.

Because I will just put this in context, the Ordinary Council Meeting considering the sponsorship application on behalf of Perth Fashion Festival for its 2016 event took place on 9 August of 2016?---Yes.

10

And as I understand it, the Perth Fashion Festival event for many, many years, if not for the entire years, was always in September?---Right.

Does that sound about right to you?---Yes, that sounds right.

15

I'm just going to show you an email chain between yourself and Cecilia Firth?---Okay.

And that's dated 17 September through to 20 September 2016. Madam Associate, this is 16.6360, TRIM number, sir, 21262.

20

COMMISSIONER: Thank you.

MR URQUHART: We will just start from the bottom there if we can, Mr Adamos?---Yes.

25

Sorry, we should go up to the top, from Jim Adamos, City of Perth, to Cecilia Firth, do you see that?---Yes, I do.

30 17 September 2016, 8.53 pm:

Cecilia, I've organised tickets for these two events directly with Mariella Harvey Hanrahan at TPDF. Could you please diarise for me and organise Gift Declarations, many thanks, Cr A.

35

Then you give it a description of the events, do you see that?---That's right.

So two events, one on Thursday, 22 September and then again, one on Friday, 23 September 2016. Do you have a recollection now of - - -?---Yes.

40

- - - having to organise these tickets with Ms Harvey Hanrahan?---That's right.

Was it the case that you contacted her either by phone or email and requested them, did you?---I don't remember how I did it but I must have spoken to her directly.

45

If we can then go over the page, thank you, Madam Associate, to 6359 - my

apologies the one before, 6359 and we just start from the bottom there with the email on 20 September 2016:

5 *Hi Councillor, diarised for you. Do you know the value of each for the gift dec, please? Thanks. Kind regards, Cecilia Firth.*

You've responded, do you see that above that?---Yes.

10 It's in very small writing and if anyone can't read that, please let me know. Thank you, Madam Associate. You've responded:

I think the website said \$69, Tks.

15 ?---Yes.

Then we will just complete this exchange. Above that, Ms Firth asks you:

20 *Thanks, Councillor. So that's two tickets for each event? Kind regards.*

You've responded there above there, up the very top:

No, just one.

25 ?---Right.

Going back down towards the bottom there when you've advised that, "I think the website said \$69"?---Mm hmm.

30 When you subsequently attended these two events, can you recall where your seat was?---I don't remember where the seat was, sorry.

I can help you out here, this will be the last time you attended the events at the Perth Fashion Festival?---Right.

35 At least the last time you attended events at the Perth Concert Hall?---Right.

40 Would I be right in saying, Mr Adamos, that usually prior to this that the Councillors who attend at fashion events put on by the PFF, particularly at the Concert Hall would have very good seats, like in the first row or rows?---That's right, possibly. That would normally happen.

And you would also get what I've described to other ex-Councillors as a show bag?---I think everyone got the show bag.

45 Are you sure everybody got the show bag, or just those who had more exclusive tickets than others?---I think everyone got the show bag. That was my

understanding.

Am I right in saying though that Councillors who did attend the Perth Fashion Festival events at the Concert Hall would be invited for pre-show drinks and food?---That's right.

Yes?---That's right.

Am I right in saying that wasn't extended to everybody who had a ticket?---I think that's probably right. I don't know for sure.

Would you agree with me that there was a price range in the tickets to these events?---Yes, there's definitely a price range.

Yes?---Yes.

When you said that, "I think the website said \$69", can you recall whether you were relying on the tickets that were the lowest price?---I don't remember. I don't remember.

I'm just going to, if I may, just show you the Gift Declaration Forms that you completed for these two events. Madam Associate, that can come down now. If we can put up, firstly, 16.6363. Mr Adamos, I will just give you the opportunity of having a look at this?---Mm hmm.

Would I be right in saying that those entries that have been typed in, that has been done by somebody else other than yourself?---That's right.

And where there's handwriting, apart from Mr Mileham's signature at the bottom, the handwriting, including the ticks, would be yourself?---That's right.

Bear with me for one moment now. I just want to ask you a couple of things about this. I gather you've put the entry \$69, that's been as a result of, would you agree, what you've told Ms Firth?---Mm hmm.

And then you've - alongside the box that appears about a quarter of the way down, "Who will benefit from acceptance of the gift"?---Mm hmm.

Do you see that?---That's right.

And you've written in, "Self"?---That's right.

And that's clearly correct, isn't it?---M'mm.

You agree with that?---Yes, I agree.

So if a Councillor was to receive a free ticket to an event such as the Perth Fashion

Festival, the person who is going to be benefiting from the acceptance of the gift is the Councillor, particularly if they attend?---Yes, that's right.

5 What would you say to a description given that, "Who will benefit from the acceptance of the gift", if someone wrote in, "Ratepayers"; is that entirely accurate?---I suppose it depends what the event is. If you - I don't know. I mean, sometimes I'm pretty sure I've written there, "Self and City", so that's who's going to benefit from it.

10 But it always is, the person who's going to benefit the most would be the Councillor attending the free event?---True, that would be the person that benefits the most but the City still does get a benefit. It depends what the event is, I suppose.

15 Why would you say that?---I mean, if there's anything - sometimes these things, not everyone wants to go to but it's just representing the City so, it's showing somebody from the City of Perth is there to represent them.

20 Would you agree with me the more accurate answer or response to that would be, like you've written there, "Self"?---Yes, I guess so in this case.

Mr Adamos, I accept when you said in your email that you think the website said \$69 but there is information before the Inquiry which suggests that the ticket you received was worth more than that basic ticket price?---Okay.

25 And in fairness to you, the amount would seem to be \$180?---Right, okay.

Again, I'm going to ask you - we do actually know exactly what it was, it was The Whole 9 Yards International Runway event, do you see that?---Yes.

30 Does that help jog your memory as to where it was that you were actually seated?---I still don't remember where I was seated. I don't know.

35 All right?---I don't remember.

So that's on Thursday, 22 September 2016. I'm just going to show you now the other Gift Declaration Form that you completed?---Mm hmm.

40 Incidentally, you've completed two Gift Declaration Forms, one for the one show that you went to and then another for the other show that you went to?---Right.

45 Do you agree with me that if a Councillor like yourself was to go to multiple shows for the one festival, using Perth Fashion Festival, it would be appropriate for a separate Gift Declaration Form to be completed for each show or event the Councillor's attended?---I would think so, yes.

Particularly if it's been filled out on - even if it was being filled out on the same

day?---I suppose if they were two separate events with two separate tickets, yes.

There's no criticism of you, that's exactly what you've done, so I'm just asking you whether you believe that would be appropriate?---M'mm.

5

Madam Associate, if we look now, please, at 6357. Sir, the TRIM number for that last one was 21263, if I haven't already said that.

COMMISSIONER: Thank you.

10

MR URQUHART: And the TRIM number for this one, 6357, is 21262.

COMMISSIONER: Thank you.

15

MR URQUHART: I will just give you the opportunity to have a quick look at that there, Mr Adamos?---Mm hmm.

Again, it's for the same week and the same festival and this is on Friday, 23 September?---M'mm.

20

And once more, am I right in saying that the typed details there would have been completed by Ms Firth or somebody else?---That's right.

And that you've completed the ones that involve handwriting?---That's right

25

[10.30 am]

Again, I just draw your attention to the value of the gift, again you've said \$69 and once more, Mr Adamos, information before the Inquiry would suggest that was just the general administration price for a ticket and that it may well be the case that if you were in a VIP section with the opportunity of attending a pre-show event that offered free drinks and food, that the price of that ticket would have been \$160?---Right, okay.

30

35

For this event. Again, do you have a recollection of where you sat for this one?---I don't remember where I sat, I really don't. It's a long time ago.

Do you ever remember attending the Perth Fashion Festival where you weren't sitting in a row or an area of the Concert Hall where you would normally sit?

40

Like, for example, were you - I can never remember whether it's the lounge or the stalls, but upstairs or towards the back of the Concert Hall; can you ever recall an occasion like that?---For the Fashion Festival?

Yes, for the Fashion Festival, yes?---Most Fashion Festival events were, or those at the Concert Hall, I don't remember them being in the main auditorium. I thought they were just through the hallways. I don't remember exactly where they were at the Concert Hall. I don't remember where they were, specifically at the Concert

45

Hall.

5 The reason why I'm raising this with you, Mr Adamos, and again this is no criticism, you've gone to the website, you've seen the price there, but do you agree with me, with the combined total of these tickets, with the combined total here - - -?---With what you're saying.

Yes, comes to \$138 which makes it a notifiable gift?---Mm hmm.

10 But if in fact they were worth \$160 and \$180, then that would take it above \$300?---True.

Do you see that?---That's right.

15 Mr Adamos, we also understand that there was something on the back of this form which was a table?---Mm hmm.

20 And it would have appeared on both those Gift Declaration Forms that you completed for these tickets you received for the 2016 Perth Fashion Festival?---Right.

So I'm just going to use what's on the back of the form for this particular one. Madam Associate, if you could go to the next page, please, 6358?---Right.

25 Do you remember seeing something like this on forms at some point in 2016?---Yes, I do remember it.

Can I ask whether you used it to assist you?---To be honest, I didn't.

30 Because you see here, we have got four headings and four columns?---Mm hmm.

So, "Elected Member role" is the first column, second column titled, "Gift benefit", third column, "Recommendation" and then the fourth column is some explanations?---Yes.

35 So I know you've said to me you didn't look at this when completing the Gift Declaration Forms but if you could just have a look at it now, Mr Adamos and tell me where these two tickets that had been offered to you, what the recommendation would be for them? If you need to have a little time to look at this, that's fine?---Okay. I would say either (c) or (f).

40 Yes. So (c) or (f), if we just look at that. So (c) under the "Elected Member role", "Elected Member supports, facilitates relationships with the City, with stakeholders", and then we have got three categories as to what the type of gift or benefit might be?---That's right.

Would I be right in saying - I will ask you, which category did you think, if you

were using (c), that these two gifts fell under?---If I was using (c), I would have to pick, "Gift of influence", if I was using (f), then that would be acceptable.

5 But if it was a gift of influence, it would be the recommendation is to decline?---To decline it, m'mm.

Although, if we are dealing with (f), do you see that?---Yes.

10 I see what you're saying, that that would be acceptable, but then do you see there, "Description", "As defined in the City of Perth Code of Conduct, any benefits received by an Elected Member in accordance with the terms of a sponsorship or other commercial arrangement need not be disclosed as part of this Gift Declaration Form"?---That's right.

15 But you have, however, completed these Gift Declaration Forms?---True, but there was other - I'm sure I've completed other Gift Declarations that may have been under \$50 as well.

20 Yes, but you see here, if you read that, would I be right in saying that is what might have been under the old system?---Mm hmm.

Remember we said - - -?---Yes.

25 - - - 2015 was the last year in which free tickets were provided to the City as part of the sponsorship arrangement?---That's right.

30 And now in this instance here, what you've done and this is not criticism of you, but what you've done is you've contacted one of the organisers as an individual Councillor and requested or she's offered you or you've requested two free tickets?---Yes.

Would that be fair to say?---That's right.

35 So again, no criticism of you, Mr Adamos, because I understand 2016, there was a lot happening and there were mistakes being made, it would seem, by not just Elected Members but Governance Officers as well?---Okay.

40 So you're not alone in this regard if an error's been made. Would you think now, looking back, that the more accurate description of the two tickets you received would be under (c)?---That's true.

Gift of influence?---Yes, I accept that.

45 Of course, had you had the opportunity of looking at this document, you may well have had to have declined the gifts?---True.

Again, I stress, mistakes were being made in 2016 regarding this because of the

changes that were being made. Thank you for that.

COMMISSIONER: While Mr Urquhart is paused, Mr Adamos, how are you bearing up?---Yes, good, thank you. I'm happy to keep going.

5

I propose to take an adjournment of 15 minutes at 11 o'clock?---Okay.

Will that be adequate for you?---Yes, that will be fine, thank you. Thanks for asking.

10

MR URQUHART: If you need it beforehand, just you mention that to the Commissioner and we will rise. That's fine?---Thank you.

Mr Adamos, I just want to ask you some questions now about the Perth International Arts Festival?---Yes.

15

And as I understand it, that was an event which the City of Perth sponsored through your time as a Councillor?---That's right.

20

And again staying with the years that are the Inquiry's Terms of Reference, that's 2015-2018?---That's right.

Is it your recollection that together with the Perth Fashion Festival, the PIAF, if I can use that acronym?---M'mm.

25

Received one of the largest sponsorship from the City of Perth every year?---That's right, it did.

\$300,000 or more?---That sounds right.

30

Does that sound about right?---That sounds about right.

Again, did you attend PIAF events with free tickets?---Yes.

35

As a result of a sponsorship arrangement it had with the City of Perth?---Yes, I did.

I am talking about that time before March 2016 when tickets were made available?---That's right.

40

As part of the sponsorship agreement. With respect to the PIAF event in February of 2016, so then to put it in context, that's before March 2016 when it was clear that all the changes had to be implemented?---That's right.

So do you recall attending a number of events?---I don't remember but I would have gone - I would have gone to some events.

45

Can you remember a one man show called, "The object lesson"?---A one man

show?

Which was on at the State Theatre Centre?---I don't remember that one.

5 It might not have been very good?---Maybe.

A concert performed by Gordon Bregovic and his eight member orchestra - I'm not going to can that one because that got rave reviews; do you remember that one?---I don't.

10

Down at Elizabeth Quay?---That sounds familiar, yes.

And then a performance by cabaret performer with the unusual name of Meow Meow?---I don't remember that one, but yes.

15

You completed some Gift Declaration Forms in relation to that. You haven't seen these before but that's simply because the Inquiry has only sought copies of those just before you - in fact, during the course of your evidence. I don't know whether we can get it up on the screen or not - no, we can't?---That's fine.

20

I've got hard copies to show you and if you will just give me the opportunity of having a look at them myself before I provide - has the Commissioner got a copy? Thank you. We will do it the old-fashioned way, Mr Adamos. You've dated each of these forms 28 March of 2016?---Mm hmm.

25

And again, there seems to be large influx of Gift Declaration Forms that have been completed by Councillors in the last week of March of 2016?---That's right.

It would seem at the request of the City?---That's right.

30

So having a look at those forms, it might give you a recollection of these three events?---Sorry, are these all for the same event?

MS THORNTON: My four are also, counsel.

35

MR URQUHART: Sorry?

MS THORNTON: I've got four copies of the same event.

40

WITNESS: Yes, so have I?

COMMISSIONER: So do I.

MR URQUHART: That's no good, because you should have three copies of different events?---Maybe they need to be split up.

45

I've certainly got three here. Madam Associate, are you able to sort that out again?

Apologies for that.

ASSOCIATE: I thought they were clipped in bundles but they were separate.

5 MR URQUHART: Yes, mine were in bundles. Mine are fine so I certainly can provide one to my learned friend here. There's three separate ones, so we have got The Object Lesson, Gordon Bregovic or we can go by TRIM - you've sorted it out?

ASSOCIATE: Yes.

10

MR URQUHART: Can I have a quick look, Madam Associate, to make sure that's all right. Yes, that's it, thank you. Are we all sorted? Thank you, Madam Associate.

15 There we go, Mr Adamos, you've got the three there out in front of you there?---Mm hmm.

[10.45 am]

20 Looking at this, does this help jog your memory?---Yes.

I do note that with respect to The Object Lesson, do you see the Gift Declaration Form for that?---Mm hmm.

25 It says, "PIAF 2015", whereas the others say, "PIAF 2016", might - let's test your memory, might that be a typographical error, because - - -?---I think so because - yes, because it says, "Date gift was offered prior to 14 February 16".

30 Yes, and also the request by the City for Councillors to complete Gift Declaration Forms only arose from tickets that they had received from 1 July 2015?---Right, that makes sense.

35 And anyone who's lived in this State for a reasonable length of time will know the Perth International Arts Festival was always held in the beginning of every year?---That's right.

So the total gift value there, do you see that, would be \$500?---That's right.

40 These forms look a little different to the ones that I showed you earlier. However, it seems to contain the same information?---Mm hmm.

Once more, you had, to be commended, do you see there, "Who will benefit from the acceptance of the gift", just about halfway down?---Mm hmm.

45 You've said, "Self and spouse"?---Mm hmm.

So you've obviously taken your wife?---That's right.

To these three shows, and they were all dated 28 March 2016?---Mm hmm.

5 Sir, these haven't been given Bates numbers but they will, if it hasn't already happened.

COMMISSIONER: Would you like me to mark them?

10 MR URQUHART: Yes, sir. I have got TRIM numbers for them if that helps.

COMMISSIONER: Yes.

15 MR URQUHART: So The Object Lesson Gift Declaration is TRIM number 24927.

COMMISSIONER: Yes.

20 MR URQUHART: The Meows Meows Little Mermaid, TRIM number 24926 and the Gift Declaration regarding Gordon Bregovic is TRIM number 24925.

COMMISSIONER: Thank you. I will deal with them in chronological order, then.

25 #EXHIBIT JA1 - Three Gift Declarations bearing the TRIM numbers 24925, 24926 and 24927.

MR URQUHART: Thank you, sir.

30 Mr Adamos, did you want to say anything more about those, because if not, you can just collect those and hand them back to Madam Associate. Thank you. The sponsorship applications for the 2017 PIAF event was before Council at its Ordinary Council Meeting on 13 December 2016, okay?---Sorry, say that again, please?

35 Yes. There was a sponsorship application made by the organisers of PIAF for its 2017 festival and that application was before Council at an Ordinary Council Meeting on 13 December 2016?---Right, okay.

40 So a couple of months before the festival started?---That sounds right.

And you were in attendance?---Mm hmm.

And you declared a financial interest in the matter?---Right.

45 All right?---Yes.

If I need to show you the minutes I can, but it seems, or it is the case that you did

everything correctly there?---Mm hmm.

Can you recall how it was you came to make that declaration of a financial interest? It's not evident from the minutes?---I would have only have made that
5 declaration by having received tickets prior.

Yes, that's right?---M'mm.

And do you know whether you were reminded that you needed to declare a
10 financial interest or whether you recalled that you would have to do that and if you can't, that's fine?---I'm sorry, I don't remember.

The next sponsorship application by PIAF for its 2018 festival was before Council at its Ordinary Council Meeting on 1 August of 2017?---Right, okay.
15

I will show you the minutes now of that meeting?---Yes, okay.

So are you with me?---Yes.

20 You're with me with the years?---Yes.

So 2016 you've made a declaration of a financial interest?---Mm hmm.

And now this is 2017. Madam Associate, can we have 16.0937. In fact, this
25 would have been a document that was provided to your legal representatives, Mr Adamos, so you might well have had an opportunity of seeing this beforehand?---Okay.

Okay?---Yes.
30

Just bear with me one moment while I get my copy. That's just the cover page, just to confirm that we have got the right OCM, or Ordinary Council Meeting. If we go now to 938, thank you, Madam Associate. TRIM number, sir, 24803.

35 COMMISSIONER: Thank you.

MR URQUHART: I just wanted to show you that page, Mr Adamos, so you can see you're in attendance?---Yes.

40 Then if we go to 940, we can see there that this deals with the disclosures of members' interests?---Yes.

Do you see that?---Yes.

45 There have been four impartiality interests made and a proximity interest made?---Mm hmm.

Do you see there that you have made an impartiality interest?---That's right.

Regarding the Perth Public Art Foundation funding review?---Mm hmm.

5 And the extent has been described that you're a board member of the Perth Public Art Foundation and in fact, you gave that as an example - - -?---Yes.

- - - of when someone would have to declare an impartiality interest, is that right?---That's right.

10

I want to go now to 0941, thank you, Madam Associate. Before we do that, you haven't made a financial interest declaration for PIAF?---No.

15 Do you have actually a recollection of not making a declaration?---I don't have a recollection of that.

So if we go over the page to 942 now and we can see that the Council unanimously accepted the recommendation by the officers and then the committee, can you see that?---Yes.

20

Can I ask you if you have any recollection as to why it was you did not make a declaration of financial interest? I stress again, Mr Adamos, a number of people have not made declarations are financial interest when it would appear that they maybe ought to have done so. So the purpose of these questions is so that the Inquiry knows why that might have been the case?---I'm sorry, I don't remember why I didn't but - yes, I don't remember why I didn't. It looks like I should have but I don't remember why I didn't make a declaration then.

25

I'm going to take you now to the Hopman Cup?---Yes.

30

And it would appear there was a similar pattern there, but would you like to take the break now?---I'm happy to keep going if you think it's not too much more.

Hopefully, you can get it through in the next 10 or 15 minutes?---Okay, that would be great.

35

Are you happy with that?---Yes.

Sure?---Yes.

40

So the Hopman Cup's held every January?---Mm hmm.

Or used to be, not any more?---Yes.

45 Can you recall going to the Hopman Cup in January of 2016, so this is before everything came up regarding free tickets and the fact that - - -?---That's right, yes.

Do you recall going to that tournament with free tickets via the sponsorship arrangement that the City of Perth had?---Yes.

5 So we will just have a quick look at those Gift Declarations if we can. So Madam Associate, the first one is 16.0881. I will get you to have a quick look at that?---Yes, I can see that.

Do you see that's been a Gift Declaration Form signed by yourself?---Mm hmm.

10 And you went to the Hopman Cup, it seems, on 3 January 2016 with six tickets?---That sounds right.

And you made - you've actually handwritten in the gift value there, is that your handwriting?---That's right.

15 \$96 times six, \$576 and there's no criticism about that amount that you've specified, that seems to be the correct amount?---Mm hmm.

20 "Who will benefit from the acceptance of the gift", you've written, "Self, spouse" and in this instance, "City stakeholders"?---That's right.

Can I just ask you as a matter of interest why it was you included "City stakeholders" for this particular Gift Declaration Form?---Because I took City stakeholders.

25 So the four other tickets were - - -?---Yes.

City stakeholders, so what, ratepayers, were they?---Ratepayers, yes.

30 Who you knew?---That's right.

Thank you. Then it looks like you went on another occasion as well to the Hopman Cup in 2016 and I will just find that one now. Madam Associate, if that can be taken down and if we can have a look at 0891. Sir, the TRIM number for that last one, 24746.

35

COMMISSIONER: Thank you.

40 MR URQUHART: The TRIM number for this next one, 891, is 24751.

COMMISSIONER: Thank you.

MR URQUHART: Again, Mr Adamos, you've completed this and signed this and it all seems to be almost identical to the other one?---Yes.

45 Save and except there's a different date as to when the gift was offered and it was six tickets on 9 January 2016?---That sounds right, yes.

And again, "Self, spouse and City stakeholders" because once more you took your wife and ratepayers who you were acquainted with?---That's right.

5 Can I ask you, given those amounts, did you understand that when you completed those forms, or signed them at least, on 28 March of 2016, that you had a financial interest now with respect to the Hopman Cup and should any sponsorship applications be made in the future?---I guess so. I don't remember at the time. I mean, we filled these forms in because we were asked because we hadn't
10 completed them when we should have.

Yes?---I don't - to be honest, it's probably just - yes, I think I just would have filled the form in. I didn't think about the ramifications of it, I suppose, with the value of it, although I put the value in.

15 [11.00 am]

To put it in context, Mr Adamos, this is four days after those WhatsApp messages from the then Lord Mayor and also from yourself?---Yes, but it's still during 16, it was still - I didn't think the City - even with the WhatsApp messages, I still didn't
20 think that the City Administration really landed exactly how this was all going to be treated, so I didn't take anyone else's discussion as kind of anything valid until the end of the year, until it was all kind of finalised.

25 So the next time the sponsorship application by the organisers of the Hopman Cup came before Council after March of 2016 was at the Ordinary Council Meeting on 11 October of that year?---Right, okay.

And again, I'm just checking here now, it would appear that your legal representatives were provided with the minutes of that Ordinary Council Meeting?---Right.

And I can say that you were present but you did declare a financial interest?---Right.

35 Then you excused yourself from that meeting, together with Councillors Chen, Davidson and Yong?---Right.

Does that help jog your memory of that meeting?---That sounds right.

40 And it appears, or it would be readily apparent that you and the other three did declare a financial interest because you were advised by Mr Ridgwell via email that you needed to do that?---That sounds right.

45 If we go then now to the next year, at the Ordinary Council Meeting on 6 June of 2017 and that's when the Hopman Cup sponsorship was next being considered by Council?---Right, okay.

5 If you don't mind, if we could just have a look now at those minutes from that meeting. Madam Associate, that would be 16.6414 and again, this would have been some minutes that were provided to your legal representatives, but it would have been for their benefit, a different Bates number, 16.0921, to assist them. So 6414, I just want to use that copy that we have got here, Mr Adamos. So there's the cover page to these minutes?---Mm hmm.

10 And then we go to 6415 - sir, this is TRIM number 21227.

COMMISSIONER: Thank you.

15 MR URQUHART: That next page, we can see that you were in attendance, in fact, there's a full Council present?---Right.

There's nine of you, do you see that?---Yes.

Then we go over the page to 6416?---Yes.

20 And item 8 there, "Disclosure of members' interests", we can see disclosures made by a number of the Councillors, including yourself and that was regarding a proximity interest for you?---That's right.

25 And then we go to the next page for the completion of the table of disclosures, 6417, and we can see two further disclosures by Councillors by Chen and Green?---Yes.

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

30 Whilst Councillor Yong and Councillor Chen had made disclosures, they haven't made a financial interest disclosure regarding the Hopman Cup and nor has Councillor Davidson and nor have you?---Mm hmm.

35 Yes, it was Councillor Davidson, I got those right?---Yes.

Can you remember there was four of you who used tickets to go in 2016 to the Hopman Cup?---I think you mentioned it earlier.

40 Yes?---It was that.

It's evident now if we go to 6418, that you have participated in the sponsorship application which was for a triennial sponsorship for the Hopman Cup, do you see that?---Yes, I see that.

45 Do you recall this particular Ordinary Council Meeting? It was when Councillor Davidson moved an alternate motion or a motion to amend the motion and decreasing by \$25,000 the amount to the Hopman Cup?---I don't remember

specifically the meeting itself but yes, this is something that obviously happened and it did happen from time to time, it changes.

5 But in this particular one, Councillor Davidson, when that was moved and it was passed by eight votes to one, Councillor Davidson then made a motion to amend the Perth Fashion Festival sponsorship application to increase it by \$25,000?---Right, okay.

10 Does that help jog your memory about what happened on this occasion?---Sorry, I don't remember specifically the meeting itself, no.

15 So again, Mr Adamos, it's evident from the minutes that there were no financial interest disclosures by either yourself or the other three Councillors who had made such disclosures when the Hopman Cup sponsorship application was considered the year before?---Yes.

20 You were nodding your head there, yes. Do you know why you declared a financial interest in 2016 and not in 2017?---I don't know. It just must be carelessness, I think. I don't know why I didn't.

I'm going to show you this last document I want to show you. It might cast some light on why that was, okay?---Okay.

25 But can I just ask you a question again: with respect to - you've told us how complex this was in 2016 and maybe well into 2017 as well. Again, was it a dual responsibility in your view as to when Councillors needed to declare a financial interest?---The buck - the actual buck stops with the Councillor so we - it's our responsibility but - it's our final responsibility but I agree, it's a bit of a dual responsibility, that we need some support. If I was there on a full-time basis, it's kind of different but when you're there part-time, you really need some support from the Administration to help you get through this and just remind you from time to time. It was never - not declaring an interest would never have been intentional. It's pretty easy just to declare the interest and walk out of the meeting, I would have, for sure but I just think we needed more support around us from the Administration to say, "Hey look, Councillor, you declared last year, are you sure you don't want to declare this year", or just ask you questions, I suppose.

40 How do you think then the City or Governance should approach that to a Councillor, because it would be advising the Councillor they'd made a mistake or they'd done something wrong? Is there a power imbalance there?---No, I think maybe just before a Council meeting, just maybe like a simple summary, "These are all the times Councillors have made their declarations, financial, proximity, all the different interests", just keep a running sheet and just have it attached on to the back. At least this way you can kind of quickly scan over and understand, particularly for this whole 12 month period, where the 12 months starts and finishes.

I just want to ask you that, do you know where it was that you got that understanding it was a 12 month period?---I don't know. I just always knew it was a 12 month period, I just don't remember how I learned of it.

5 One thing about that, about a list, we have heard evidence about there being something called a hub, does that ring a bell with you, Council hub? It was a portal?---It sounds familiar, yes.

10 And apparently, according to Mr Ridgwell, this information could be accessed and a Councillor would be able to see if they had a particular interest in a matter?---Yes. It was always cumbersome to navigate but you wouldn't be doing it as a Council meeting is about to start.

15 No?---So it would be easier if the document is just there at the back and five minutes before the meeting starts, you can cast your eye over and just jog your memory.

20 So you think a hard copy of such a document would be of greater assistance than having to access it - - -?---Yes, if the ramifications are that you shouldn't be participating in a meeting, then that's a simple approach to solving that problem.

Mr Adamos, we digressed a bit there?---Sorry.

25 That's fine, that's my fault. I'm going to show you something now, an email and ask you some questions regarding it. Madam Associate, this will be 16.0947. This is TRIM number, sir, 24889.

COMMISSIONER: Thank you.

30 MR URQUHART: There's a series of emails here, Mr Adamos, which I need to take you through. It's best if we start at the very first one which appears at the bottom of that page and it's dated 10 October 2016?---Right.

35 And it's from Mr Ridgwell and it's been sent to the Lord Mayor and all Councillors and Mr Ridgwell advises that there's a disclosure of interest form attached and it continues:

40 *Can I please ask that you review the agenda papers for the Council meeting and undertake the necessary disclosures you wish to make and return to [REDACTED] at your earliest convenience.*

45 So this was with respect to a Council meeting that was coming up the next day?---Yes.

So given what you've just said there a moment ago, Mr Adamos, you would be of the view, I take it then, if you were to receive an email like this, there should also

be a summary of those Councillors who may well have an interest with respect to those items coming up at that Council meeting?---M'mm.

Would that be right?---Yes, that's right.

5

If we go here now - do you remember I said to you how it would seem that Mr Ridgwell suggested that you and the other three Councillors make a declaration of a financial interest regarding the Hopman Cup?---Yes.

10 At the 11 October Ordinary Council Meeting; this was an email. I will get it up on the screen now. Madam Associate, 946 now, please. This is sent on the same day eight minutes after that last email:

15 *Dear Councillors, it has been identified that you have a direct financial interest in item 13 of the Council agenda. Can you please complete the attached disclosure of interest form and return to myself.*

?---Right.

20 In fact, Mr Ridgwell on this occasion has gone one step further?---Yes.

And actually advised you. And it's to do with the Hopman Cup tickets?---Yes, I see that.

25 And then he's set out Councillor Keith Yong, Councillor - if we go to the next page 947, thank you, madam associate - Councillor Jim Adamos, you're there?---Mm hmm.

Councillor Lily Chen and Councillor Janet Davidson, do you see all that?---Yes.

30

So as I said, you made the appropriate financial interest declarations at the Council meeting the next day?---M'mm.

But of course, it wasn't done in 2017?---Yes.

35

I want to take you to an email that Mr Yong sent to Mr Ridgwell after he sent that particular email. Madam Associate, can we go back to 946 and we just start there at the top of the page, he's CCed you and Councillors Chen and Davidson, together with Cathryn Clayton from the City of Perth. I'm just going to read out what he said there:

40

45 *Hi Mark, for clarification purposes please advise if all EMs previously attended City's sponsored event must declare interest for the rest of their term as Councillors. Interested to know the reason. Much appreciated. Kind regards, Cr Keith Yong.*

Do you see that?---Mm hmm.

I don't suppose you've got a recollection of seeing or reading that email now, three years later?---I'm sorry, I don't.

- 5 That's fine, no need to apologise at all. So then we go to the page before that, Madam Associate, 945, and Mr Ridgwell has responded to Mr Yong and he's also included the same people that Mr Yong, or then Councillor Yong sent in his email:

10 *Hello Councillor Yong, on those Elected Members - it would appear that's a typo, Mr Adamos, and it should read "only" - Only those Elected Members who have received a gift over \$200 in value in the past 12 month period.*

- 15 To put that in context, what he appears to be saying is, Councillor's only need to declare an interest if they'd received a gift over \$100 in value over the pass 12 month period?---Right.

So - - -?---Yes. I'm not sure where the \$200 comes from, but that's okay.

- 20 Yes, I can advise you he's got that amount right. It depends on whether someone or an organisation's is a closely associated person or not?---Okay.

That's why I was interested to hear you say that you believed it was \$300?---That's what I thought.

- 25 Again, no criticism, this is a very complicated, complex set of provisions. Leaving that aside, there's a reference there to "a past 12 months period"?---Right

[11.15 am]

- 30 Mr Adamos, are you able to say anything about this and whether you placed any reliance on it or you might have or you don't know, you can't recall?---I'm sorry, I don't recall this one. I don't know about this one, about this email.

- 35 I'd asked you earlier where you'd got this 12 month period from?---Yes.

- So here's an email that you were CCed into in which a 12 month period is mentioned?---Yes, I got the 12 months from somewhere, I don't remember. This email, I don't remember having received it, obviously I did, but the 12 month period, I don't recall where that came from.

That's fine, Mr Adamos. That's all the questions I've got for you. I apologise that went a bit longer than the 15 or 20 minutes I estimated?---That's okay.

- 45 Thank you, Commissioner.

COMMISSIONER: Thank you, Mr Urquhart. Mr Adamos, if you're up to it,

what I will do now is call on counsel to see if there are any applications to further examine you?---Mm hmm.

Are you up to it?---Yes, I'm fine for that.

Very well. Mr Mariotto?

MR MARIOTTO: No application, Commissioner.

COMMISSIONER: Thank you. Ms Saraceni?

MS SARACENI: No application, thank you, sir.

COMMISSIONER: Mr McIntyre?

MR McINTYRE: No application.

COMMISSIONER: Thank you. Mr Fetherstonhaugh?

MR FETHERSTONHAUGH: No application, sir.

COMMISSIONER: Thank you. Ms Thornton?

MS THORNTON: No application, thank you, Commissioner.

COMMISSIONER: Thank you. In that case, Mr Adamos, that concludes your evidence for today?---Thank you.

I will excuse you from further attendance today and I'd like to thank you for your evidence, it's been of assistance to the Inquiry. Mr Urquhart, I now propose to adjourn for 15 minutes, is that convenient?

MR URQUHART: It is, thank you, sir.

COMMISSIONER: Thank you.

WITNESS WITHDREW

(Short adjournment)

HEARING RECOMMENCED AT 11.35 PM.

COMMISSIONER: Yes, Mr Urquhart.

5 MR URQUHART: Thank you, Commissioner. The next witness will be Reece Harley. Mr Harley is already in the back of the hearing room, sir.

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

MR HARLEY: Affirmation, thank you, Commissioner.

COMMISSIONER: Thank you. Madam Associate.

15 **MR Reece James HARLEY, affirmed:**

COMMISSIONER: Thank you, Mr Harley. Take a seat, please. I will now hear applications, starting with you, Mr McIntyre.

20 MR McINTYRE: Yes, I seek leave to appear with my learned friend Mr O'Meara for Mr Harley.

COMMISSIONER: I can't imagine there would be any objection.

25 MR URQUHART: No, there's not, sir, nor to the balance of the applications that are about to be made.

COMMISSIONER: Thank you. In that case, leave is granted.
30 Mr Fetherstonhaugh?

MR FETHERSTONHAUGH: Thank you, Commissioner. I seek leave to appear on behalf of Ms Scaffidi.

35 COMMISSIONER: Thank you, leave is granted. Ms Saraceni?

MS SARACENI: Together with Mr Tuohy, we seek leave to appear on behalf of Mr Mileham.

40 COMMISSIONER: Thank you, leave is granted. Ms Ford.

MS FORD: Good morning, Commissioner. I seek leave to appear on behalf of Dr Green.

45 COMMISSIONER: Thank you, leave is granted.

MS FORD: Thank you.

COMMISSIONER: Yes, Mr Urquhart.

MR URQUHART: Thank you very much, sir.

5

Mr Harley, I just want to recap about a couple of things?---Sure.

You were first elected in October of 2013?---Yes.

10

You unsuccessfully ran for the position of Lord Mayor in October of 2015?---Yes.

Re-elected as a Councillor in October of 2017?---Yes.

15

And you were a member of the Council when it was suspended in March of last year?---Yes.

Thank you. There has been some material that was provided to your legal representatives the week before last; have you had an opportunity of looking at them?---Yes.

20

I'll be mainly referring to those documents, there might be an odd document or two that you haven't seen but you will be given plenty of opportunity to have a look at that when it appears on the screen in front of you. Also, unless I say otherwise, Mr Harley, my questions are going to be confined to that period of the Terms of Reference of the Inquiry, that is from 1 October 2015 to 1 March 2018, all right?---Sure.

25

During that time timeframe, what did you understand your obligations were with respect to disclosing gifts you'd received in your role as Councillor, and I'm going beyond the receipt of tickets as gifts, okay?---Yes. My understanding changed throughout the period but I could, I guess, most simply say that I understood as an Elected Member that tickets to events needed to be disclosed, tickets that were - sorry, gifts that were within a certain threshold, that is I understood it to be over \$50 in value and under \$300 in value, those gifts over \$300 in value were prohibited gifts and could not be accepted. I understood that also offers of gifts needed to be disclosed, not just gifts that had been accepted, but the definition of a gift I do not think was well understood. Certainly, the advice that was provided to Elected Members was that tickets to City of Perth sponsored events were not considered gifts, they were fulfilling the role of the office and as part of a sponsorship deal but then that advice changed after the Healthway's scandal and subsequent enquiries were made. So my understanding changed throughout the period but I was aware that gifts, however they had been defined they time, needed to be disclosed, and also contributions to travel needed to be disclosed in the annual returns.

40
45

Thank you. You've mentioned there about free tickets being regarded as gifts and I gather it's your evidence that this came to a head following the handing down of

the Healthway report and there also might have been another report by the Public Sector Commission that looked at government agencies in general?---That's correct.

- 5 Regarding sponsorship arrangements that had free tickets for those particular government agencies?--- yes.

Was this a concern of yours before the Healthway matter?---I had some concerns in relation to the ticketing, I guess, policies of the Council but I did not personally
10 consider that a Councillor accepting an invitation to a City of Perth sponsored event constituted a personal gift. That was not my understanding at the time and I think that was broadly understood to be the case, but I had some concerns about the amount of tickets that had been included in certain City of Perth sponsorships and I raised a concern in relation to the WA Ballet at one time.

15 All right, we are not going to go down that path. With respect to gifts, were you aware that the combined total of separate gifts might have a bearing on the gift's classification?---Was I aware? I'm certainly aware now. I cannot say with 100 per cent confidence that I was aware that multiple tickets needed to be combined
20 together and constituted a total gift value that needed to be within the threshold. I'm not 100 per cent sure but I did come to that understanding during the period.

Can you recall when that was?---It would have been immediately after the Healthway's report and the subsequent advice.

25 In your time as a Councillor, again during that time frame 2015 to 2018, what was your - if we can go back a bit earlier, to when you were first elected, what was your understanding of when an Elected Member would have a financial interest in a matter?---Yes. Well, for example, if a gift of overseas travel had been offered, if
30 a, I guess, an invitation to dinner, if a developer had given you a birthday present, if an organisation had given you a book or had bought you a bottle of wine, for example, the bottle of wine, the giving of a book, that kind of thing that was something that I was declaring very early on but I didn't understand that tickets to sponsored events also constituted a gift.

35 You're talking about when you have to make a Gift Declaration?---Yes.

But I'm talking about a situation in which a Councillor would have to make a declaration of a financial interest in a matter that was before Council?---Sure.

40 What was your understanding of that and we can then just use the timeframe in which you were a Councillor?---A financial interest needed to be declared if an Elected Member had a direct financial involvement in a matter before Council, or if - so, for example, if you owned a property that was the subject of an application,
45 if you were in business with someone who was the subject of an application, it was that kind of direct financial interest, as I understood it.

Did you understand that the provision of gifts could give rise to the need to make a financial interest declaration?---I did understand that the giving of a gift over the threshold constituted a financial interest, yes.

5 What did you understand that threshold amount was?---\$50 - over \$50 and below \$300, I thought.

And that would trigger a requirement through Council?---Yes, that was my understanding, yes, at the time but that was, for example, as I said, a bottle of
10 wine, book, that kind of thing but not the ticket to a ticketed event, for example.

Did you understand what it meant under the Local Government Act, and again this is for the term of your role as a Councillor, if someone or an entity was "a closely associated person" with a Councillor?---I am familiar with that phrase and I have
15 understood what that means because I've read the legislation. I can't recall the definition at the moment

[11.45 am]

20 When did you read the legislation though?---It was upon election in October 2013.

What would you say regarding the complexities or otherwise of circumstances in which a Councillor needs to make a declaration of a financial interest?---I think it is terribly complex, overly complex in very many ways. If a gift is defined as
25 acceptance to an event at which a Councillor is invited to represent the City, the paperwork involved in that is enormous and I think cumbersome and unworkable. There are a lot of instances, some of which I was chatting to my lawyer about before, where - there are a lot of line ball calls and I accept that Elected Members need to show sound judgment but there are a lot of line ball calls about whether or
30 not attending, for example, the opening of a school on William Street at which you're offered a glass of wine and some canapes, does it depend on how many glasses of wine you have at the event as to whether or not a gift has been offered and if you have four glasses of wine, then perhaps you've received a gift over \$50 in value and if you don't, then you haven't. So there are some really fine - I guess
35 fine judgment calls that make it slightly confusing and even still, I would argue, and it's my personal view that, for example, turning up to the Perth Fashion Festival as a Councillor, I've never turned up to the Perth Fashion Festival before, after serving on the Council, it's not something that I'm personally interested in and don't consider it to be - - -

40 We will get to that in a moment?---But don't consider it to be a personal gift, it is fulfilling the duties of the role, in my view.

Who do you say is responsible though for making those line ball decisions?---The
45 Elected Members.

Is it the Councillor or somebody else?---The Elected Members is always

responsible and can be assisted with the provision of good advice from the Administration.

5 In your time as a Councillor, did you have an understanding of what an indirect financial interest was as compared to a direct financial interest?---No.

If an Elected Member had a financial interest in a matter before Council, what was that Elected Member required to do?---Declare it and remove themselves from any discussion or decision-making in relation to the item.

10

And you were always aware of that requirement?---Yes.

I'm not talking about the timeframe in which a Gift Declaration Form has to be made with respect to this question, but I'm asking you, what was your
15 understanding as to how long from when a financial interest arose, did an Elected Member have to declare a financial interest in that matter, should it come before Council? Do you understand the question?---Yes, I do but I will split the answer into two parts. If you're in business with someone, then you have a financial interest for as long as you're in business with them. So the day after you're not in
20 business with you, I presume that a financial interest no longer remains. In regards to the provision of a gift, my understanding was that the clock was 12 months. However, I'm still not sure under the legislation whether or not that's 12 months from the offer, i.e., the sending of an invite, or 12 months from the date, i.e., acceptance of the gift.

25

So where did you get that understanding from, this 12 month period?---I had received different advice from the Administration, so that advice from the Administration. I had received different advice that they were going back and checking and working out exactly how long the clock lasted. Some advice that we
30 had received in an Elected Member briefing was that it was 12 months, other advice was that it was for the length of your term. So I'm unsure on that.

Do you recall when that Elected Member briefing session was? The Inquiry knows there was one in March 2016, 23 March and then another - - -?---In August
35 perhaps.

- - - on 9 August 2016, both dates in 2016?---Yes.

40 Can you recall which one that was where you got the 12 month period?---I recall there being more confusion in the March briefing, so I'd suggest that's more likely to be the time, because everything was fresh.

Do you recall voting on - obviously you do - sponsorship applications with respect to Perth Fashion Festival?---I do.

45

Can you recall how you voted with respect to those sponsorship applications by the Perth Fashion Festival?---Yes, generally I think - in all cases in line with the

Administration recommendations.

Why was that?---I didn't have a particular interest in the Perth Fashion Festival and I accepted the advice of the Administration.

5

Do you recall that there was, by and large, unanimous support for the Perth Fashion Festival amongst Councillors?---Yes, over most of the period, yes.

10 From what you could observe, were some Councillors more supportive of it than others?---Yes.

15 Who were they?---I remember that Councillor Davidson in two subsequent years moved amendments to increase sponsorship to the festival. It had been, I guess, well understood that the Lord Mayor was a fan of the event as well, having served on the board and knowing the founder well. Other Elected Members that were associated with the Lord Mayor and Councillor Davidson tended to support increases. Myself, Councillor Green and Councillor Limnios I think were a little more sceptical about the funding.

20 As I understand your evidence, you attended Perth Fashion Festival with tickets that you didn't have to pay for?---Yes, that's correct.

25 Can you recall what years they were, or year?---I recall that there was a ticket that was offered to me for August 2016 which I accepted.

2016, who offered you that?---That would have been a notification from the Councillors' Resource Officer that tickets were available to the festival and I believe that we filled in a form to indicate which event we'd like to attend. That form was given back to the Administration who then liaised with the festival.

30

Are you sure about the date?---No.

Because I will advise you now that - you're aware of the Healthway report?---Yes.

35 And there was another report too that was conducted by the Public Sector Commissioner?---Yes.

40 That second report was handed down in February of 2016 and then that led to some changes being adopted, no doubt by not just the City of Perth but a vast range of government agencies?---Yes. It may have been 2017 then.

Let me finish. The sponsorship arrangements that had the City been provided with free tickets - - -?---Changed.

45 - - - changed. So 2015 and maybe the Hopman Cup in early January of 2016 were the last occasions in which that was done?---Yes. I do explicitly recall this now. It was in September of 2015.

For the Perth Fashion Festival?---Correct.

5 Do you remember going to a lunch, a Myer lunch for the Perth Fashion Festival in 2014?---Yes. It was at the Fraser's Reception Centre, yes, but I would like to state that while I attended the ticket to the 2015 event, I did not attend the event.

10 Right. Did you complete a Gift Declaration Form for that?---I did. Yes, on advice from the Administration, I filled in the Gift Declaration Form because I'd accepted the event. I did not attend the event.

The reason why you didn't attend?---Yes, it was September of 2015. There was a mayoral election happening and I recall not feeling up to it.

15 So we will have a look at that form if we can then. That will be 6385, thank you, Madam Associate. TRIM number, sir, 21252.

COMMISSIONER: Thank you.

20 MR URQUHART: Is that your handwriting?---Yes.

We can see there it was for an event that was on 19 September 2015?---Yes.

25 Perth Fashion Festival of WA Designer Runway No 2?---Yes.

And you've dated that 29 March 2016, do you see that towards the bottom of the page?---Yes, it was a retrospective declaration.

30 Yes, and we have heard evidence that there was a large amount of retrospective Gift Declaration Forms being completed by Councillors at the request of the City?---Correct.

In the last week of March?---That's correct.

35 And it was to be for all gifts that the Councillor had received from 1 July of 2015?---Sure.

Does that sound about right?---Yes, it does, yes.

40 So with respect to this particular one, can I ask where you got the value of the gift from?---It was an estimate, as I've noted, yes.

So how were you able to make that estimate?---I think it may have been based on a ticket to a similar event that I'd seen advertised in the previous year.

45 So you didn't go?---That's correct, yes.

But did you know where that ticket was going to be with respect to the event?
Was it going to be a general admission ticket or a ticket with benefits?---Right.
No, I didn't know where it would be.

5 It would seem that the actual value of the ticket was \$180?---Okay, I accept that.

So you were fairly close but you were basing that on what, the lunch that you went
to the year before?---No, sorry, the program which I'd read of the previous year's
proceedings in 2014.

10

I see. How did you have a copy of that, do you remember?---I kept lots of copies
of things behind my desk, so copies of the Fashion Festival program, lots of
programs for reference.

15 Would you agree with me that if you needed to find the precise value, all you
needed to do was contact the contact person that you've written there. I gather
that's a shorthand description for Mariella Harvey Hanrahan?---That's correct.
What would generally happen - remember, this is the first week in which any such
declarations had been filled in - what happened thereafter is that when an
20 invitation was made to an Elected Member, our Councillors' Resource Officer
would contact the organisation and ask them to estimate a value and we would
then be advised on that and put that on the form. So if I'd wanted a more specific
figure, I could have contacted her and asked to contact the organisation.

25 Whose responsibility do you think that is? Do you think a Councillor should be
making that enquiry themselves directly or would it be appropriate, as you have
suggested, to just delegate that to somebody else within the City?---As it was a
City of Perth sponsored event and the tickets had been offered via the City, I would
have felt it more appropriate to ask the question of the Administration to do that on
30 our behalf. The Director of the Fashion Festival doesn't need to be nine individual
emails from Elected Members and answering that kind of query, it would be more
efficient for the City to perhaps ask that question in bulk and get the answer and
then provide the advice.

35 All right?---Because as I said to you previously, I don't consider it to be a personal
gift.

You haven't completed the box there, "Who will benefit from acceptance of the
gift", do you see that?---Yes. I wasn't sure how to answer that.

40

Did you think to enquire of someone?---I had made an enquiry with the Director of
Governance, Mark Ridgwell, I think, at a later point because to me it didn't feel
like I was personally benefiting.

45 Is that because you didn't go?---No, it was because I - at this point when I made the
declaration, I'd recalled that I hadn't attended but even if I'd gone, I wouldn't have
felt as if it was a personal benefit to me.

Why is that?---Because I was representing the City and fulfilling my duties to attend the event, I had thought, and if it had been an invitation to have pub lunch at the Queens, I probably would have put, "Yes, that's a personal benefit to me" but attending a Fashion Festival event as a Councillor of the City, to me it didn't feel like it was a personal gift and that I was benefiting in any way.

Why the difference between the two examples, the Perth Fashion Festival and the lunch at the pub?---Because one felt like I was - I didn't want to say a chore, but one felt like I was attending to represent the City to be there and to fulfil my duties. It wasn't, at that time, considered to be a personal gift to me.

So you regard that as to whether you're going to derive some personal benefit from it or not?---As I've said just previously, I am still a bit dubious about this definition of what is a gift. Attending a Fashion Festival event isn't something that I want to do, isn't something that I have done before or I have done previously and so it was attending an event that the City had sponsored as a Councillor.

But you don't need to go?---That's right. Councillors could attend no events if we wanted to but I doubt that you'd be duly fulfilling the proper duties of the role to represent the City. It's our job to be the conduit between the community and the Council and attending such events is the way that we can carry out those duties.

[12 noon]

So do you say that you don't derive a benefit from an event that you would not have ordinarily gone to if you had to pay for the ticket?---It would be hard - this is the recommended retail value, I presume, that I'm estimating, but what is the actual benefit to me to attend the event? It wasn't clear to me that there was any actual benefit to me personally.

But if you were going to the Perth Concert Hall to see your favorite rock band perform, and you'd been offered a free ticket by the City because it was sponsoring the event, have you derived a benefit then?---I think I would have been more likely to put my own name there, yes, because really, I guess I'm fulfilling the duties of the role but I'm also receiving, in my eyes, a personal benefit from attending. I'm trying to be as honest as I can with you.

Yes, I know?---To share my thoughts and feelings at the time and I understand that there are regulations that need to be adhered to but in regards to this event, I didn't feel like I was receiving a personal benefit. I think if I'm attending a dinner, then I'm receiving food and drink and that's quite obvious to me that there's a personal benefit to me.

Then it becomes quite subjective, doesn't it?---Yes, and I think it's quite a confusing area of policy.

Wouldn't it be more accurate to say that you're attending an event as a representative of the City of Perth if you actually do something at the event, like, for example, give a speech?---Yes, arguably if you give a key note, which is almost always the Lord Mayor's job, then yes, you could say that you are I guess, more
5 fulsomely representing the City. It was my personal practice that I would always wear a City of Perth badge to every single event that I ever attended on behalf of the City and made an effort to speak as many people as I could at those events and do my best to carry out those duties, not just blend into the background.

10 So getting back to this?---Yes.

Did you deliberately leave that blank?---I don't recall deliberately leaving it blank, I remember being confused about how to answer it and perhaps I should have received some advice.

15 Do you recall trying to obtain that advice?---I recall asking the question, I cannot recall if it was in relation to this particular time, but I do recall, for example, Councillor Davidson used to write, "The city" in that box rather than herself because she had a similar question in her mind about who was personally - who
20 was actually benefiting from attending the event.

Can I just ask you this question: did you believe as a result of - at least accepting that gift but not necessarily attending, that that gave rise to a financial interest for you with respect to Perth Fashion Festival matters that were to come up in the
25 future? I'm not saying it did, I'm just asking you whether you believed that it did?---I will take you to the form which is the contemporary record. There's a section here, "I declare this information is accurate", et cetera, "and will not create a future conflict of interest for me in fulfilling my position responsibilities." So I had thought that in declaring this gift, acceptance of an attendance, declaring it,
30 that it would not create a conflict of interest for me in fulfilling my position responsibilities. I subsequently accept that I was wrong and that, accepting a gift as it is defined, as it is understood, does create a financial conflict of interest but it wasn't my understanding at the time.

35 Why do you say it was wrong?---Because I understand that accepting such a gift does create a financial conflict of interest now.

What, no matter what the value of the gift is?---I think, no, it is in relation to the value of the gift.

40 Yes?---Over \$50 and under \$300 in value, I had thought and that it needed to be whether or not the applicant - sorry, the giver of the gift was likely to be subject to a future Council decision and in regards to the Perth Fashion Festival, as they were annually sponsored events, it's likely and in fact we did in future years provide
45 sponsorship to them.

Can I ask you where you got that information from, about it being a gifts between

\$50 and \$300, do you know?---I had understood that was at an Elected Member briefing, that a gift over \$50 was a notifiable gift.

Yes?---And a gift over \$300 was a prohibited gift.

5

Right?---And that any gifts in between that value needed to be declared.

Yes, but then I'm asking you about whether or not it gave rise to a financial interest?---My understanding at the time - at which time? My understanding early on in the process was that it did not constitute a financial interest but later on in the process, I had thought that we had received some advice from the Administration that told us that it did constitute a conflict of interest in relation to the 40under40 Awards, for example.

15 Yes, but you believed the value was between \$50 and \$300?---That's correct, yes.

Or indeed, over \$300 as well?---Was a prohibited gift, so it couldn't be accepted.

Right. From 2016 onwards, so this is after the briefing sessions and after Councillors were requested to complete these Gift Declaration Forms retrospectively?---Yes.

Who did you regard was responsible for accurately recording information on declaration forms?---Elected Members always.

25

What about declaring financial interests?---Always with the Elected Member.

Did you see any involvement from Governance with respect to either of those two matters, Gift Declaration Forms or financial interests?---Yes. Governance, in essence, upped their game and provided more support to Elected Members because of the, I guess, general confusion and advice that had been given and the new state of things. So it was the case in future agendas that the Governance team would refer to the Gift Declaration Register and insert financial conflicts of interest into agendas, for example, to provide us with assistance, yes.

35

Do you agree with me, that can only work if the values, either actual or estimated, on those Gift Declaration Forms, were accurate?---Yes, absolutely.

Can I ask you how you were aware that Councillor Davidson gave a reason of, "Who will benefit from the acceptance of the gift", how did you know that?---Yes, she told me that.

40

Did you ever access fellow Councillors' Gift Declaration Forms?---No.

I want to ask you something about 6 June 2017 Ordinary Council Meeting?---Sure.

45

And this was one of those documents that was provided to you. They are the

minutes of that meeting. Madam Associate, if we can put up there on the screen, please, 16.6414. We can see it's just the cover page for this meeting. We can see that you were in attendance?---Yes.

- 5 And if we go now, please, to 6416, we can see the disclosure of members' interests that had been made?---Mm hmm.

And what we see there is there's some proximity interest declarations, a direct financial interest, and if we go on to 6417, we can see some other interests being
10 declared by Councillors Chen and Green?---Mm hmm.

Was it the case that there were more declarations of interests following, or as of 2016?---Yes.

- 15 Notably more?---Yes, because people were now declaring gifts of event attendance, yes.

If we go down to 6418 now, please, and this was the event sponsorship for the Hopman Cup?---Yes.

20 This is an occasion which you may well recall in which Councillor Davidson had a motion to amend?---Yes.

- 25 To reduce the triennial event sponsorship from \$125,000 down to \$100,000, can you see that?---Yes.

And the motion to amend was put and carried and do you see that there, the only Councillor voting against that was Councillor Limnios?---Yes.

- 30 Can I ask why you voted for that, because this was not just a recommendation by the officers, but also the committee recommendation as well?---Yes. I've thought about this, my recollection is that I had a view that the Hopman Cup was not particularly deserving of City of Perth funding because it was a corporate event. The Council's policy was favoured towards providing sponsorship towards not for
35 profit organisations and for events that had a large public program and were not in the main, ticketed events. I remember thinking that - I remember being unsure about why the amendment was being made but feeling that, oh well, I'm happy for the funding to be reduced because the Hopman Cup's got the world's biggest players, it's a corporate event at the arena and that if they increased the value of
40 their tickets by 50 cents, they could cover all of the cost. I remember thinking about all of the other competing priorities at the City of Perth at the time and thinking that the Hopman Cup wasn't particularly deserving of a large amount of sponsorship, given it had so many other corporate funders.

- 45 Do you know what happened with the very next item at this meeting?---Yes, but I did not know that that was planned, yes.

Had you been aware of that, how might you have voted?---I would have voted differently if I'd been aware that the funding was being moved from one event to the other.

5 Because you're well aware that with the next item, it was the Perth Fashion Festival?---Mm hmm.

Councillor Davidson again made a motion to amend?---Yes.

10 And asked that the sponsorship amount that had been recommended by the officers, be increased by exactly the same amount of \$25,000?---Yes, and the penny dropped at that point what had happened.

15 Can I just ask you now for your views on some sort of notice being given prior to a meeting if Councillors wanted to file either alternative motions or amend the motions that are before the Council, do you see some merit in that?---Yes, I do. I recall that that kind of thing happened more frequently at the beginning of my term. Before relationships frayed, Councillors were more collegiate and would give people a heads-up and then as the period went on, it was more likely that
20 amendments would be made without notice.

Yes?---Or with notice to some Elected Members and not others.

25 So if we can then look at 6419, thank you, Madam Associate. If I haven't already said this, sir, the TRIM number for this document is 21227.

COMMISSIONER: Thank you.

30 MR URQUHART: Just to clarify this now, Mr Harley, the motion to amend was put and carried regarding the Hopman Cup?---Yes.

And then it was put and then carried, that amended motion?---Yes.

35 Do you see that there?---Yes.

Then the reason was given:

At 7.16 pm the Lord Mayor declared an interest in item 13.6 and departed the meeting.

40 Then Councillor Limnios as Deputy Lord Mayor assumed the Chair and the next matter was, as you well know, the Perth Fashion Festival. We can see there at the bottom of the page that the committee, i.e. the Marketing Committee, recommended to Council the same as that recommended by the officers. If we go
45 over the page now to 6420. This motion was actually moved by Councillor Chen and it was seconded by Councillor Yong, that Council approves what was already before it but then there was a motion to amend by Councillor Davidson?---M'mm.

And seconded by Councillor McEvoy as we can see. The motion to amend was put and carried and it was passed five to three. Have you had the opportunity of looking at the transcript of this particular item that was before Council?---Yes

5

[12.15 pm]

We see there that Councillor Chen had moved the original motion but then, she voted for the motion to amend?---M'mm.

10

How often did that happen?---Councillor Chen was - - -

No, in the sense of just generally, a Councillor moving a motion, then there was a motion to amend and then the Councillor who moved the original motion then voted for the motion to amend?---Councillor Chen - so how often generally?

15

Yes, generally first?---Generally I would say it would be infrequent. However, a Councillor might want to ensure that their vote was recorded as being in favour of the item even if they didn't 100 per cent agree with it. So they might not, I guess, see much difference in \$25,000 and want to vote in favour of it twice, whether or not it was being given sponsorship of this amount or that amount. I would say that Councillor Chen was sometimes a little confused when it came to procedural matters and so I don't see that was particularly unusual.

20

Because if you'd voted against, it would have been four all and as I understand it, would have meant the member who was presiding had the vote?---That is correct, yes.

25

So in that case, if that had happened, then it would be the Deputy Lord Mayor having the casting vote and he doesn't necessarily have to agree with what he had voted upon, is that right?---That's correct.

30

But ordinarily that would follow?---Ordinarily that would follow, yes, in which the case the amended motion would have lapsed and the substantive motion would have been under debate.

35

Yes. Mr Harley, we do have an audio, as well as a transcript of this meeting. I do want to play a portion of that audio?---Sure.

That deals with when Councillor Davidson moves that motion to amend, okay?---Yes.

40

Madam Associate, this is 16.6665, TRIM number, sir, 24255.

COMMISSIONER: Thank you.

45

MR URQUHART: And those with the benefit of the transcript, it starts on page

3, just above line 40, starting with the Deputy Lord Mayor saying, "Councillor Chen." So at six minutes and 10 seconds - - -

ASSOCIATE: Did you want me to go to the transcript?

MR URQUHART: No, that's all right. If we have the audio up loud enough, it will be clear for everyone. So it's 6 minutes, 10 seconds or thereabouts.

(Audio played to the court.)

MR URQUHART: Okay. There is some laughter there which Mr Limnios said it was most likely him?---Yes, it was.

It was him?---Yes.

And then it doesn't appear on the transcript and we could just pick it up on the audio, that's why I had Madam Associate play it loudly, when the Deputy Lord Mayor says, "Sorry, okay, we have got an amendment" and then Councillor Davidson says - for the benefit of those with transcript this is at the top of page 4 - "I don't expect it around the Chamber. There is nothing, you know, that's funny about that amendment I've just made." Then there is a voice that can't be identified but you might be able to help us as to who it was, who says in the background, "Very well planned", to which Mrs Davidson replies, "Not at all." Did you hear that in the background, the voice?---I heard that there was something said, yes.

Was that you?---95 per cent, yes. Yes.

Why did you make that comment, I heard James go, "Ah", penny drop, and then we realised what had happened and yes, I am 95 per cent sure I then said, "Very well planned." To which Councillor Davidson denied?---"Not at all", yes.

And maintained that it was her prerogative?---Yes, that's right.

I gather you've read the transcript?---Yes.

Do you recall from reading that transcript that the CEO, and indeed it would appear, Mr Ridgwell as well, were anxious to get a reason before Council?---Yes.

Do you have a recollection of that?---I do.

Refreshed by your reading of the transcript?---Yes, I remember it was quite painful and many kind of requests were made to make that reason more clear.

And the reason for the reason having to be cited is because an amendment - -
-?---The law.

- - - was being made and by law, a reason has to be given and has to bear proper scrutiny should that go on the public record?---Yes, and there has to be a valid reason why the Administration's recommendation isn't accepted.

5 So what was your view on all of this? You voted against it?---M'mm, and I said at the time that I thought it was, yes, very interesting that one had been given to the other. It is important for, I guess, Elected Members to act on the advice of Administration, although they do have the prerogative to change the recommendation. I think where it came to at the end was that the amount that was
10 offered was, I guess, not enough to properly indicate the value of the Fashion Festival to the City.

It was still in excess of a quarter of a million dollars?---Yes, and there had been media around this issue the previous year where money had been cut and the
15 Fashion Festival had lost a few sponsors and its revenue was declining, so I guess Elected Members - anyway, that was the context.

I'm going to now have the transcript put up on the screen. Madam Associate, this particular page will be page 8 and that's at 16.6815, TRIM number, sir, 24768.
20

COMMISSIONER: Thank you.

MR URQUHART: I want to go to line 45 now where the Deputy Lord Mayor said:
25

Thank you. Does anybody else wish to speak?

And you said:

30 *I'll speak to this one. No, no, if that's the way we want to do business, fine.*

Can I ask you what you meant by that?---My recollection of the proceedings were that there was an attempt made to stop the debate and that there was some
35 confusion about whether or not Councillor Chen or Councillor Davidson - so the practice at the City of Perth was that if the mover of the item had spoken and then spoken a second time, they would close the debate and there was a - I think there was an indication perhaps from Councillor Davidson, maybe, to put a hand up or something, to attempt to close the debate and that was the response at the time.
40

If we go, please, to 6817 now, Madam Associate, and you again speak to this at the top of the page there, just above line, or the number 10. Do you see that?---Yes.

You say, "Thank you." This is you speaking to the motion?---Yes.
45

:

5 *What a very convenient, interesting debate we are having here. So we
take \$25,000 from the Hopman Cup and we give it to the Perth Fashion
Festival, that's what's happening here clearly, Councillor Davidson
moving both amendments. So interesting situation. I'm, you know,
neither here nor there about the amount, it's quite clear that the
Administration had recommended an amount. Colleagues around the
table have decided to disagree with them, as they did last year when the
Administration recommended \$240,000 and that was jacked up by 30.
Now the Administration have recommended this and it's been jacked up
by 25, so clearly there are efforts in the Council to give the Perth
Fashion Festival more money that our Director of Economic
Development and the team who determine sponsorships believe they
should be granted. That is obviously Council's prerogative.*

15 And it continues a little bit more?---Mm hmm.

By this stage, had not the procedure for determining the appropriate sponsorship amounts been tightened up by the City? Do you have a recollection of that?---Yes. There was a process led by the director, Director Battista, to tighten up the marking matrix around the value of the events, in particular looking at the economic return on investment to the City and there was also this structure about the difference between annual and triennial sponsorships, of which the Fashion Festival had missed out but, for example, the Perth Festival was in that triennial category. So there had been a lot more rigour placed around it and Director Battista had made it quite - had told us that she had made it quite clear to the Fashion Festival that they no longer were innocents eligible for as much funding as they had received in the past and that it was the City's intention to reduce that amount over time, and they were giving them forewarning of that.

30 This more rigorous protocol that had been introduced, I'm asking you as a general question, did it seem to work in your view?---I was happy that there was a more rigorous protocol. I'm not sure one way or the other if it worked per se, but it's always good to have process to fall back on and I felt that was a good thing.

35 As we know, that motion to amend was not just passed but then the amended motion was also passed and from recollection, if we go and have a look now - Madam Associate, if we could go back to the minutes, please, to 6421, thank you. The votes were recorded as follows and Councillors Adamos, Chen, Davidson, Limnios, McEvoy and Yong voted for and Councillors Green and yourself voted against. Then the reason given, "The Telstra Perth Fashion Festival delivers outcomes that support a greater increase in appropriate sponsorship." What did you regard the validity of that reason? How would you rate it?---Greater increase - it was actually a decrease on the previous year as I'd understood it, but in terms of the validity, I thought it was probably the closest that they could get to a valid reason.

Something about procedure that Mr Limnios has told us about as to why he voted

for and not against like he had for the motion to amend?---To amend, yes.

And he said that if the amended motion failed, then there would be no sponsorship supplied by the City?---That's not my understanding.

5

That was or was not?---That's not my understanding.

[12.30 pm]

10

What was your understanding? So the amended motion is put and let's say it wasn't carried?---This is the motion to amend?

Yes?---If the motion to amend lapses, the substantive motion becomes the motion, so there would be another opportunity for Councillors to vote on the sponsorship at a lesser amount.

15

Than the amount that had been recommended?---Correct.

That's your understanding of it?---Yes.

20

Thank you, Madam Associate, that can come down now. I want to ask you some questions now regarding the sponsorship of 40under40 which you've already mentioned and some email exchanges that you had with your fellow Councillors regarding that?---Yes.

25

So we will deal now with, Madam Associate, 0798, that's 16.0798. Just bear with me while I get my copy. This here is from 31 March 2016 and it's an email from Mr Ridgwell which states - sent on 31 March 2016, 11.59 am:

30

Dear Lord Mayor and Councillors, please find attached the online Gift and Travel Register that will be uploaded to the website 2 pm today, Regards, Mark Ridgwell.

Is that something he did from March 2016 onwards or was it something he had done all the time?---That was the first time it had been uploaded and it was the subject of a Council direction.

35

And if we go now to 0799 - incidentally, sir, the TRIM number for that last document was 24717. The TRIM number for this document is 24736.

40

COMMISSIONER: Thank you.

MR URQUHART: You see there, there's some Gift Declarations or Gift Register with respect to the 40under40 Awards dinner, it seems?---Mm hmm.

45

You have to say yes or no, rather than mm hmm?---Sorry, yes.

And you see that one's for Councillor Green, another one by Councillor Davidson and also yourself?---Yes.

5 Do you recall sending an email to Councillor Davidson when you saw that information?---Yes.

So we go now to 797, thank you, Madam Associate, TRIM number, sir, 24717.

10 COMMISSIONER: Thank you.

MR URQUHART: You've just sent this email to her alone and it was on Thursday, 31 March 2016, so the same day and less than half an hour after Mr Ridgwell had sent the email?---Yes.

15 :

Hi Janet, FYI, raising this with you for your own benefit. I notice you've declared one ticket for the 40under40, not two. Might want to amend the record in case someone picks you up.

20 You've got a smiley face?---Signed it what a smiley face, yes.

And no-one's going to disagree with my description of those two dots there and the brackets, that's a relief to hear, "Yours sincerely, Reece Harley"?---Yes.

25 So why was it that you sent that email on to Councillor Davidson?---Yes, because Councillor Davidson was accompanied by her husband to that event so I thought that she might need to declare the two tickets rather than the one.

30 Are you aware whether she subsequently did that?---I'm not sure.

So you felt duty bound to do that or you felt as a matter of courtesy?---Duty bound? No, I didn't feel duty bound, I felt friendly towards Councillor Davidson and wanted to make sure that she'd made the right declaration in case it caused her trouble in the future.

35 So your relationship with Councillor Davidson was amicable as of March 2016?---Yes, and for most of the period, most of my time on Council, yes.

40 What about your relationship with Councillor Yong?---Yes, it was amicable as well for most of the time. I found him a bit frustrating but it was amicable.

Do you recall sending an email to him regarding this Gift Register form that had been attached to Mr Ridgwell's email?---Yes.

45 You do? Okay. I'm going to show you that now. Madam Associate, 16.0812. Sir, this is TRIM number 24720.

COMMISSIONER: Thank you.

5 MR URQUHART: So to put this into context, the email that appears at the bottom is exactly the same one that I've already referred you to?---Yes.

And then this is an email that you've sent to - - -?---All.

10 Yes, to everyone?---Yes, correct.

Or to a number of people. You've sent it to Mr Ridgwell and Lord Mayor and Councillors?---Yes.

15 Mr Mileham, Ms Denton, who was she?---Governance Officer or an admin officer, I'd say.

And Annaliese Battista as well?---Yes, because they were in the original email chain.

20 Although the email you sent to Councillor Davidson was just addressed to her?---M'mm. Yes, that's true. This one perhaps was sent first and then the one to Davidson second, I'm not sure.

25 No, the one to Davidson was at - let's have a look. They are all about the same time?---Yes, sure.

I will just clarify that. It was certainly on the same day, the one to Councillor Davidson was at 12.26.40?---Sure.

30 And this one has gone at, it would seem, 12.27.26 pm, so you've actually addressed it to Mr Ridgwell and Mr Yong would have been in on that CC Lord Mayor and Councillors?---Yes, that's right.

35 And this reads:

I also note Councillor Yong attended and brought a friend. Keith, it would be a good idea to submit the relevant form ASAP, yours sincerely, Reece Harley.

40 Do you see that?---Yes.

Again, you've drawn that matter to Councillor Yong's attention and I do think an amendment was subsequently made?---Okay, good.

45 Again, were you aware from your attendance at that event that he had taken a friend?---Yes, that's correct.

So the question I have for you though is, why it was that you included a whole lot of other people in that email?---Sure. I am not sure. I'm not sure. I could only say that it's possible that my relationship with Councillor Davidson was more friendly than with that of Mr Young.

5

Should that have been a reason?---Not necessarily, no. I could have sent it to him directly.

Yes, as you did for Councillor Davidson?---That's right.

10

So the distinction between the two is that you were more friendly with Councillor Davidson than you were with Councillor Yong?---Perhaps. I cannot recall exactly why but that's a logical conclusion.

15

It could be said, Mr Harley, that that was done intentionally in order to embarrass him?---My recollection of the time is that it wasn't done intentionally to embarrass him. There were 90 minutes or two hours between the sending of the register and it being uploaded and I remember reading it and thinking, "Oh quick, send these off to ensure that these other Councillors do the right thing before 2."

20

So you could read it and say, oh well, maybe it was to embarrass. I don't feel that it was, I think it was a genuine attempt to actually get these things tidied up in a collegiate fashion beforehand.

25

So clumsy?---Yes, perhaps the different dealings with the other person. I would have actually said it would have been more appropriate to CC all in relation to Councillor Davidson's ticket then to privately email Councillor Yong and the reason for that being, given there was such a short period of time, it would have been important for the Administration to know in both regards, so they could have perhaps phoned her up or helped to tidy that up before the deadline.

30

But you've sent both emails within about a minute or two of each other?---That's right, straightaway, yes.

35

Yes?---So I think with the benefit of hindsight, I would have included everyone on the email to Councillor Davidson.

40

Why?---Because Councillor Davidson wouldn't have necessarily read her emails in that preceding 90 minutes before it went up online. So my intention was to try and assist them to get that sorted before it was up on line and then they could be criticised for it.

45

You had both Councillors' mobile numbers though, didn't you?---Yes, that's right, but it was an administration process that was being uploaded. Yes, I could have called either of them, yes.

Would have that been more appropriate?---Maybe, yes.

Because that way you'd know if they answered that they would receive the message that you wanted to convey to them before the 2 o'clock deadline?---Yes, that's true. Yes, I could have phoned them both. I'm not sure why I didn't, I may have been on my phone or - I can't recall.

5

Just finally, if we just then deal then with some exchanges you then had with the Lord Mayor?---Sure.

At 811, so regarding that same email that you'd sent to Councillor Yong because you included the Lord Mayor as well, so she responded?---Okay, sure.

10

You see there at the bottom of the page?---Yes.

At 12.50 pm, "No need to be Policeman Reece"?---Okay, yes.

15

Then you've responded:

I'm not. You've read my email in the wrong way. I'm looking out for others. If I wasn't, I'd just let them make an incorrect declaration, Yours sincerely, Reece Harley."

20

?---That's true, yes.

And then the Lord Mayor's responded:

25

All Councillors have read it similarly, Reece, as they came to me stating such. Look after yourself. Take that the right way too, Lisa.

30 ?---Yes.

So the relationship you had with the Lord Mayor at this point in time was not as good as the one you had with Councillor Davidson?---That's correct.

35 Would that be fair to say, or indeed with Councillor Yong?---Yes, I'd formed a poor opinion of the Lord Mayor before this point.

Okay. Thank you. I just showed that for the sake of completeness. Thank you, Madam Associate, that can come down now and sir, that completes the questions I have for Mr Harley, save and except for conferring. That is, thank you, sir.

40

COMMISSIONER: Thank you very much. I will now hear applications. I will come to you last, Mr McIntyre. Ms Ford?

45 MS FORD: No application, Commissioner.

COMMISSIONER: Thank you. Ms Saraceni?

MS SARACENI: No application, sir.

COMMISSIONER: Mr Fetherstonhaugh?

5

MR FETHERSTONHAUGH: No application, sir.

COMMISSIONER: Thank you. Mr McIntyre?

10 MR McINTYRE: I have no application, sir. Thank you.

COMMISSIONER: Thank you very much. In that case, Mr Harley, you're excused from further attendance today and I would like to thank you for your assistance?---Thank you

15

WITNESS WITHDREW.

COMMISSIONER: Is there anything else that we can do before lunchtime?

20 MR URQUHART: No, there's not, sir, but might I suggest that we reconvene at a slightly earlier time of 2 o'clock.

COMMISSIONER: Yes. Would you like to reconvene earlier than that?

25 MR URQUHART: I was going to say the next witness is coming at 2 o'clock but he seems to be present already in the back of the room.

COMMISSIONER: He is.

30 MR URQUHART: We could make a start, sir. Alternatively, we could just have the break now and yes, maybe adjourn for an hour, because - I see Council's here as well, but I think 1.45 might be appropriate, sir.

35 COMMISSIONER: I will just check with Ms Saraceni. Ms Saraceni, is there any difficulty with a 1.45 start?

MS SARACENI: No, sir.

40 COMMISSIONER: Thank you, very much. In that case, I will adjourn the Inquiry until 1.45.

(Luncheon Adjournment)

45

HEARING RECOMMENCED AT 1.48 PM.

COMMISSIONER: Yes, Mr Urquhart.

5 MR URQUHART: Thank you, Commissioner. The next and final witness for this particular block is Mr Martin Mileham. I notice Mr Mileham is in the back of the hearing room.

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

MR MILEHAM: Oath, please, Commissioner.

COMMISSIONER: Thank you. Madam Associate.

15 **MR Martin Nicholas MILEHAM, sworn:**

COMMISSIONER: Thank you. Please take a seat, Mr Mileham. I will now hear applications. Ms Saraceni?

20 MS SARACENI: Thank you, Commissioner. Together with my learned friend Mr Tuohy, we seek to represent Mr Mileham today.

COMMISSIONER: Thank you, Ms Saraceni. Is there any objection?

25 MR URQUHART: No, there's not, sir, nor for the balance of the applications.

COMMISSIONER: Thank you, leave is granted.

30 MS SARACENI: Thank you.

COMMISSIONER: Mr Fetherstonhaugh?

35 MR FETHERSTONHAUGH: Thank you, Commissioner. I seek leave to appear on behalf of Ms Scaffidi.

COMMISSIONER: Yes, leave is granted. Mr O'Meara?

40 MR O'MEARA: Yes, Commissioner. I seek leave to appear on behalf of Councillor Harley with my friend, Mr Malone.

COMMISSIONER: Thank you, leave is granted. Mr Urquhart.

MR URQUHART: Surprisingly short, the amount of time that took.

45 COMMISSIONER: It's a relief to me.

MR URQUHART: It's getting better with each day.

5 Mr Mileham, to recap just very briefly, and correct me if I'm wrong, you were appointed as Acting CEO of the City of Perth on 20 January 2016?---Sounds about correct.

And then later that year you were appointed on a permanent basis?---Yes.

10 And you were still the CEO for the City when the Council was suspended on 1 March 2018?---Yes.

15 Thank you. Mr Mileham, am I right in saying that you've received some material from your legal representatives that was provided to them, I think, the week before last?---Yes.

And you've had an opportunity of looking at that?---I've perused it, yes.

20 And you're aware of the subject matter that I wish to question you about today?---I believe predominantly, yes.

If I could just start, please, and just say to you, as I have to other witnesses with respect to this matter, I generally want the witnesses to confine themselves to that period of time of the Inquiry's Terms of Reference which is 1 October 2015 through to 1 March 2018. Okay, to put that in the timeframe, that was two or three
25 months before you were appointed Acting CEO but essentially my questions will be directed to you regarding your time as the CEO, either acting or non-acting, when you were made a permanent, or at least non-acting, okay?---Understood.

30 Can you just tell us, please, what you understood were the obligations of Councillors when declaring gifts that they had received in their role as Councillors?---I understood they first needed to assess them against the provisions, the regulations and declare them accordingly.

35 Yes?---And continue to keep them in view during their term.

And were you aware of important values in determining what sort of gift they were?---I would have to say that at commencement, immediately after my commencement as acting, no, but became quickly aware of that through questioning both Governance and some advice, external advice about that.

40 And were you aware of the difference, say, between a notifiable gift and a prohibited gift?---I believe so in first principles, yes.

45 To the best of your recollection, what was the difference between the two?---In simple terms, a gift became prohibited when it hit the \$300 mark.

Yes?---Notifiable was something under that, it could be zero but I believe we had

\$50 to \$300 as being the sweet spot, if you like, of notifiable.

5 Were you aware of the ramifications, if anything, if more than one gift was provided by the same person or organisation to an individual Councillor within a period of time?---Again, at the outset, no, but as we have gained advice and again looked to first principles, became aware that it would appear to be cumulative, i.e., you could hit \$300 with a series of gifts and then be in a situation where you could accept no further gift or - that was a situation you wanted to avoid, obviously.

10 I'm just speaking generally rather than tickets which we will get to in a moment. Whose responsibility was it to ensure that the value of the gift stated on a Gift Declaration Form was as accurate as possible?---On the declarer, the Elected Member.

15 Any responsibility lay with anybody else in that regard?---Not in my belief, no.

This will be an easy question for you, I hope: and the relevant of that, the value as being as accurate as possible, what was the reason for that?---Sorry, could you repeat the question?

20 Yes, what would be the reason, why was it important - - -?---Accuracy?

Yes?---To ensure that the limits were within reason, reported correctly or appropriately managed.

25 A related subject matter now: what was your understanding of when an Elected Member had a financial interest in a matter?---If they would receive any level of financial benefit from a matter.

30 Can you give us an example?---Say, for a general example, if a proposal were to come to Council that a particular company be appointed and a Councillor was actually a member of staff of that company or took remuneration from that company or had some other financial benefit from that, that would be a direct financial interest.

35 And are you aware of a financial interest called a proximity interest?---Yes. Proximity could include someone owning a property next to a property being considered for a Development Application, for example.

40 Did you understand the connection between the provision of a gift to an Elected Member that may give rise to a financial interest being held by that member with respect to the person or organisation who gave them the gift?---Yes, I did.

45 What's not clear, I suppose, and has never been entirely clear to me is how the limits apply. In my view, it could almost be from a dollar to any number could generate that kind of potential conflict.

Did you understand what it meant under the Local Government Act if a person or an organisation was to have a - be "a closely associated person" with a Councillor?---Again, some subjectivity involved, I would assume but closely associated person could be someone that you have a close personal relationship with, socially perhaps, and that could give rise to the need to declare that relationship.

Did you also understand whether that had a bearing, if a person or an organisation was to provide gifts to an Elected Member, could that trigger that definition being applied to that person or organisation?---Closely associated person?

Yes?---I couldn't really be unequivocal on that, it may or may not, depending. All of these are subject to a level of interpretation about the actual situation in hand and I say that because advice that I had taken early in my tenure was that you cannot give general advice on these matters, you must look at the actual case before you to work out what type of conflict or interest we are talking about.

How did you find understanding the legislation that related to financial interests?---I thought it overly complex. However, what we as the admin tried to do in early 2016 was get to the basic principles, what was the legislation wanting to achieve with these various limits and so forth. So I think once one understood the basic principles, it became easier to administer.

Did you know the difference between an indirect and a direct financial interest?---I can't say I could today give you a good definition of that.

Do you think you had an understanding of it though in your time as CEO?---Again, I had an understanding that we would assess - say, for example, I would be asked about an Elected Member what interest might this situation generate, and we would look at that and it could be indirect, it could be financial, it could be closely associated person, depending on the entirety of the evidence.

Did you understand the difference between a closely associated person giving rise to a financial interest and other circumstances where a Councillor would have an impartiality interest?---Again, generally speaking it's difficult to say yes categorically but if shown a set of conditions, I think I would be able to come to the right category.

So if a Councillor was seeking advice such as this, who did you believe they should go to, yourself or Governance?---Generally Governance. I was asked that question from time to time by Elected Members and if it were unclear to me, I would suggest Governance and on a couple of occasions I think we actually needed to refer to specialist advice, particularly around the duration of how long these things would have effect.

That was going to be my next question. What did you understand about the duration of an Elected Member having to declare a financial interest at meetings in

which that matter was before Council?---The term of their - their term

[2.00 pm]

5 Their term?---Yes.

That was your understanding?---For particular - yes.

10 So, for example, with respect to the receipt of gifts which could trigger - - -?---A financial interest?

Yes, a financial interest?---For the term of their term.

15 We have heard evidence from some Councillors in which they understood it was a 12 month period?---Yes.

20 Was that ever your understanding?---Early on, as I said, when we sought advice, there was a perception that that was the case but as I understood it, say, for example, several gifts had accrued a value within a 12 month period, that obligation then became the term of your term. So in other words, the 12 month period was about how long it took to reach that threshold.

25 Yes, I see. Could you appreciate there might be some source of confusion then with that?---There was confusion, I believe, yes.

30 I might take you to some examples of that later on. I want to turn our attention now, Mr Mileham, to March of 2016 and just to put this in context, in February of 2016, the Public Sector Commission handed down the second of two reports that it made, first in relation to Healthway?---Mm hmm.

And then a more broader investigation into government agencies in general about the provision of free tickets?---Yes.

35 Do you understand what I'm - - -?---Yes.

That public service bodies had been given by organisations that that particular agency had sponsored?---Yes.

40 So you have a recollection of that timeframe there?---A relatively vague one, but yes, a recollection.

45 And is it your recollection that following that, together with some legislative changes, that Councillors were required to consider more carefully what were gifts that ought to be declared?---Yes.

And is that in relation specifically to tickets that they might have received under previous sponsorship arrangements with organisations that the City had

sponsored?---Yes. I think there had been at least one change prior to that date in an attempt to meet the requirement of the Act but when I assumed the role, my assessment of those arrangements was they were not effective.

5 Can you recall a briefing session that Governance had with Councillors - I can give you the exact date but you wouldn't necessarily remember, on 23 March 2016 which pointed out the fact that there would be a requirement to complete retrospective Gift Declarations?---I can't recall the exact date, nor the discussion, however, I have seen the material provided with the PowerPoint and I have a
10 vague memory of that.

Do you recall that request that was then made by the City for Councillors to complete Gift Declarations, tickets that they had received under sponsorship arrangements from 1 July the previous year, which is 2015?---I don't recall the
15 request but I do recall corresponding with the Department in respect to that.

Because we have seen that there were a large volume of Gift Declarations that were completed in the last week of March of 2016 by Councillors which you have signed?---Yes.
20

Do you ever a recollection of around 30 March of 2016, signing a large number of Gift Declaration Forms?---Yes - well, I don't have a recollection of actually signing them. I do recall having some concerns about the format of the form, but that put aside, I do recall, I would call it a sweep up process to enable us to
25 understand who had got what between that period and that current date, so that we could move forward appropriately when assessing things such as sponsorships because many of these sponsorships were annual.

Did you also understand that as a result of these reports, that in fact Councillors may well have financial interests in any future sponsorship applications as a result of receiving free tickets to those same events in the past?---Yes, I was aware that they had exposed themselves to the potential of that.
30

Do you have a recollection of exemptions that were sought from the Minister?---We sought exemptions - - -
35

If you've got of a recollection of that, that's fine. I will just leave that for a moment because I would probably prefer to deal with this in chronological order, it might be easier. I would just like to show you some of those Gift Declaration Forms that were completed in that last week of March of 2016?---Okay.
40

What was your job in relation to that, because you've appeared to have signed off on them at the bottom of the page?---To receive them, in effect.

45 Anything else?---My view was that at that time my job was to, as I said, do a sweep and see what had transpired over that time, to receive and log those documents. So what's the next step? I didn't see my job, if you're asking that

question, of testing their veracity per se, but at least getting the first stage of getting them declared.

5 Why didn't you regard it as your job of testing the veracity of the forms?---I would call it an audit process as opposed to a true quality check, quality assurance process. It's not my role, not the CEO's role to, for want of a better term, police what people are declaring as the truth.

10 Whose role then would that be?---Policing?

Yes, making sure what's completed on these Gift Declaration Forms is accurate and full, that all the required details have been completed?---The Elected Members, with guidance and assistance where appropriate.

15 But in circumstances where, for example, it appears that they haven't completed parts of the form that they were required to complete, whose responsibility was it then, if these forms had actually then been submitted?

20 MS SARACENI: Excuse me, Commissioner, I have an objection. I don't think the witness needs to be excused. I heard my friend ask a question about "required to be completed" and I'm not sure that - - -

COMMISSIONER: Perhaps you can confer with Mr Urquhart.

25 MS SARACENI: Thank you, sir.

COMMISSIONER: Thank you.

30 MR URQUHART: I'm obliged to my friend.

Mr Mileham, you do have a recollection of a number of forms that the City - these Gift Declaration Forms that the City requested that Elected Members complete?---That's right.

35 When those forms have been completed by the Councillors and then submitted, I'm just asking you, who would be responsible for ensuring that all the details in those forms have been completed?---I can answer that in two parts. It's the Elected Members' responsibility in both cases. However, one thing is the legislation and the other is the form and the form is designed from the policy settings or the
40 processes that the City designed.

I appreciate that?---So in my view, whether a box is filled in or not would only be germane if it left out matters that were important to the actual declaration itself.

45 What matters would be important though?---The quantum.

Yes?---The date.

Yes?---The provider.

Yes?---Probably those would be the three key issues for me.

5

What about whether the organisation that's provided the free tickets, and I'm just staying with the tickets now?---Yes.

10 Would be the subject - would likely be the subject of a future decision by the City, would that be important?---It would be important, yes, hence why I said who's providing.

I want to show you now a number of these forms and the first one, Madam Associate, is going to be 16.6331. TRIM number, sir, 21273.

15

COMMISSIONER: Thank you.

MR URQUHART: So this is one of those forms that was completed by the Lord Mayor and it was - if you can see there the date, 23 March 2016 and that's your signature that appears at the bottom, is that right?---Yes.

20

And you've dated it 30 March 2016?---Yes.

So we will just have a look at this one now. It was to do with an event conducted by the Telstra Perth Fashion Festival, do you see that, "Description of gift"?---Yes.

25

And it also says, "With guest" and it's been handwritten in, "Held on 15 Sept 2015"?---Mm hmm.

30 So this is one of those examples in which the Elected Member is required to retrospectively complete the form?---Yes.

To start with, "Tickets: \$201.86", do you see that?---Yes.

35

Do you agree with me, if in fact the tickets were each, that was the single price of a ticket, then that amount should have been double that?---Well, I guess if that is a single ticket, yes.

40 And, "Is this the first gift you have been offered by this person/organisation", do you see that, immediately under, "Value of gift"?---Yes.

That hasn't been - no box has been ticked or crossed there?---That's correct.

45 Do you agree with me that that would be an important matter to be completed?---On this form in this timeframe, probably not as important as gathering them together and that could be assessed at a later date, what the import of that is.

Assessed at a later date but by whom?---Well, as I've said, the event was 15
September 15, we are talking about something now some five, six months later so
this was a sweep up and I would call it the 80/20 rule, get most of the information
5 on the table and then assess it.

But it seems like this form wasn't returned to the Lord Mayor to complete that
section?---It may have been. I sometimes would put a Post-It note and return it for
matters that were not germane to the task at hand for a more fulsome completion,
10 but it appears from that that it was not sent back.

Then, "Who will benefit from acceptance of the gift", that hasn't been
completed?---No.

15 Would you agree with me that's an important matter as well that should be
completed?---Its absence, in my view, says that the person declaring has accepted
it and has benefitted from it.

Why would you draw that conclusion?---Well, in the absence of another person's
20 name on there, I can see no other benefit. So as I've said, the point here was to
catch up and gather together information. I think after that we wrote to the
Department when we saw the quantum.

But of course, this information was going to be used by the City in the future to
25 determine if there were any interests that needed to be disclosed?---Yes.

Would that be fair to say?---Yes.

Then on this one, about halfway down, in the box on the left-hand side, "Are they
30 likely to be subject of a future decision of the City" and neither box has either been
crossed or ticked there, do you see that?---Yes.

And given your evidence just before I showed you this form, you agreed with me
that would be an important section of the form that should be completed?---I think
35 the likelihood is probably demonstrated by the facts as opposed to the box, but
that's true.

So ideally - - ?---Ideally it would be best to have that box ticked.

40 Given the fact that this form made its way to you and you ultimately signed off on
it, if that's the accurate term, did the responsibility rest with you, in an ideal world,
to have that section completed?---With me?

Yes?---No.

45 No?---No.

So who then would be responsible for that?---The declarer.

5 But the declarer wouldn't know that unless it was returned to him or her?---The declarer's completed the form so I have to say this is not the only form where I've seen elements not filled until because - - -

Likewise?---Pardon?

10 Likewise?---And beyond the scope of your Terms of Reference, right up to the current day. So my point being that some Elected Members and others don't hold that the form requires its filling in in completeness, because it's not a legislative document, it is a construct of the City.

[2.15 pm]

15 But see, Mr Mileham, if it was a requirement of the City for these forms to be completed entirely?---Yes.

20 Because the information on those forms may well be a basis upon which the Councillor would have an interest of some sort?---Yes.

25 So if the form has been submitted without all the parts being completed and it was not returned to the Councillor concerned, then they would assume everything was all right?---They might assume wrong.

Yes. They would assume wrong if it was returned to them?---I could use the same argument with the tax department, but I would say to you - - -

30 Just stay with this. If it was returned to them with a Post-It note saying, "Please complete these sections", they would know that the City requires them to complete those sections?---They would be aware that would be a request, yes.

So getting back to this, you've got this form in front of you?---Yes.

35 You've agreed with me in an ideal world, that particular section should have been completed?---Yes.

40 The only way it's going to be completed by the Councillor is if it's returned to them?---No.

The particular form?---This particular form?

Yes?---As I say, in its form as submitted, it's accepted and acknowledged by me.

45 Do you agree with that?---Do I agree with what?

Do you agree with that, that the only way they would know that they needed to fill

out that particular section or indeed any other section you believed it would be appropriate that they fill out, they would only know that if it was returned to them?---They would only know what I want if I told them.

- 5 Yes. So if it was returned to them. Am I right in saying then that the responsibility for them filling out everything that needed to be done, after they have submitted the form?---Yes.

Would be, that responsibility would rest with you?---No.

10

Can you please explain why that responsibility would not be yours?---They could have submitted it on the back of an envelope and it could still be acknowledged.

- 15 That doesn't really answer my question?---This is a guideline. This is a policy document.

Use this form?---Yes, this is a City.

Use this form as an example?---Yes.

20

You agreed with me - we will just stay with that box that's in the middle of the page?---Yes.

- 25 "Are they likely to be the subject of a future decision of the City", you told me it was important that that section be completed?---Yes.

The reason being, I would have thought fairly obvious?---Yes.

So staying with this form?---Yes.

30

The Lord Mayor submits it to you?---Yes.

She never hears of it again?---Mm hmm.

- 35 It's then signed by you and dated; she would not know that there was a need by the City for that part of the form to be filled, unless it was returned by you with a request that she do so?---That's not correct.

- 40 You tell me why it's not corrected?---She should check it. After she submitted it, it goes on the record.

But you have now signed it, you've acknowledged it?---It's been received for the record.

- 45 So in those circumstances, she would hold the view - it wouldn't be unreasonable for her to hold the view, "Look, this is okay, what I've submitted"?---I don't think it would be - I don't know what her view would be.

Would it be unreasonable?---I don't know.

5 You see, Mr Mileham, it gets back, if there is a form that's been submitted?---Mm hmm.

But use this one as an example, and it has a section in it that you regard as important to be completed and it hasn't?---Yes.

10 It's been submitted, it comes on to your desk, you see that that important part has not been completed?---Yes.

The only way it's going to be completed is if you return it to her, would it not, with a request that she complete it?---No, I don't think that's the sole option.

15 It's the obvious option, is it not?---It is an option.

It's the obvious option, Mr Mileham?---An option.

20 COMMISSIONER: Mr Urquhart, may I just ask some questions.

MR URQUHART: Please do, sir.

25 COMMISSIONER: For my own benefit, please, Mr Mileham. You said a moment ago that this document is a construct of the City of Perth?---Yes.

And what I took that to mean, and please tell me if I'm wrong, is that this document was drafted by someone at the City of Perth or for the City of Perth by someone?---Yes.

30 Was this document in existence when you became the Acting Chief Executive Officer?---I don't believe in this form.

35 Just looking at the document on the screen in front of you at the moment which is confirm is 16.6331, is that a document then which came into existence some time after you took up the role of Acting Chief Executive Officer?---It is, to the best of my recollection, a document in that form.

40 So it came into existence after you became Acting Chief Executive Officer?---I couldn't categorically confirm that but certainly its design at this stage was following my appointment.

45 So when you became aware and more familiar with the rules concerning declarations for gifts, this form, I assume, would have been an important part of the regime that you, as the Chief Executive Officer, supervised for gifts, declarations and things of that sort, would I be right?---Yes.

If that's the case, then I assume that one of the things that you would have done when you first came across this iteration of the form is look at it to make sure that it asked all of the relevant questions, would I be right?---As many as we could get on a form, yes.

5

And if there was anything in there that was not relevant, then I assume, and you can tell me if I'm wrong, that you would have ensured that the form was amended so that that information was no longer sought?---Or potentially put as optional.

10 So if it was then to be optional, it should be marked optional, shouldn't it?---I would say that looking at it today, I would probably mark a couple of those boxes optional.

15 But you've told me that at the time that you took on the role of Acting Chief Executive Officer and this form came into existence, you examined it to see what should be there and what should not be there. If at that time you did a proper examination and you formed the view that some things were optional and some were not, that is, some were essential, then the form should have reflected those views of yours, should they not?---Yes.

20

So I infer from all of those answers that the form that you have on the screen in front of you at the moment is a form that you were content with at the time that you were acting and then substantively in the role of Chief Executive Officer?---No.

25

You weren't content with it?---No, it was a work in progress.

30 So how was that work progressing?---I think one of the things that changed in my recollection was that there was some inference on the original form that my signing it gave some form of approval and I was keen to remove that interpretation.

This form in front of us at the moment has a provision for your signature?---Yes.

35 And I assume that as a diligent CEO, if you had formed the view that it wasn't something you should be signing because the form required answers to things that weren't necessary, you wouldn't have signed off on it?---If I felt the form was incomplete?

40 Yes?---I note it's incomplete. I've signed it despite that because I believe the information that we required at that time was gathered.

45 On the form?---Yes. It could have been, as I say, a blank piece of paper submitted to me. Say, if someone had not had access to the form but they'd been overseas and they needed to get a declaration in quickly, for example, I would have accepted an email.

This isn't that situation, is it? This is a situation where the Lord Mayor has made a Gift Declaration with some significant detail on it but some significant detail omitted, so it's not that situation?---The situation was - - -

- 5 It's not that situation, is it?---No, it's the situation in which many retrospective declarations were being made in a swift manner to gather information.

I understand that and perhaps because many declarations were being made in that way, to deal with what was then understood to be an important requirement, was that not something that then required more vigilance by everyone?---I would agree and further, I would - - -

Would that include you?---I would say there's no proof that this was not sent back.

- 15 But what's the answer to my question?---Could you repeat it, please.

Would that vigilance include you?---Could you repeat the question?

Yes. Would the added vigilance, which you've agreed with, include you?---Yes.

20 Well, if it would include you and you got a form like this one, that is quite obviously incomplete, why would you sign-off on it - - -?---As I've said - - -

- - - before it was complete?---As I've said, in my view it offers sufficient information for our purposes and it was presented in the absence of any such form or declaration in the past, so - - -

Can I direct you to step 4 at the bottom of it?---Yes.

- 30 You can see it's one of four steps?---Yes.

"Step 1. Complete gift details", I assume you would say that's the responsibility of the Elected Member?---Yes.

- 35 "Step 2. Complete action taken"; whose responsibility is it to complete that part?---It's a declaration for the Elected Member.

Right. "Step 3. Submit declaration to CEO within 10 days of acceptance of the gift"?---Yes.

40 Whose responsibility is that step?---The Elected Member.

"Step 4. Forward completed declaration form to the Governance unit"?---Yes.

- 45 Whose job is that?---Mine.

So when you read that as you signed it, what did you think "completed declaration

form" meant?---From my perspective, Governance would - - -

What did you think it meant, those words?---The form sufficiently complete with the information.

5

But it doesn't say "sufficiently completed", does it, it says, "Forward completed declaration form to the Governance unit"?---Well, it was completed in my understanding of the word "completion".

10 So you're saying to me that even though it was incomplete, it was completed?---Sufficiently for our purposes.

Are you agreeing with what I'm putting to you?---Sorry, what are you putting to me, sir?

15

Are you saying to me that you considered this a completed declaration form, even though at the time you signed it, parts of it were incomplete?---For our purposes, yes.

20 Thank you?---Thank you.

Mr Urquhart.

MR URQUHART: Thank you very much, sir.

25

If step 4 had been taken by you, the completed declaration form to the Governance unit, the Elected Member completing it would not see it again?---Not necessarily.

30 Unless they requested it?---No. My recollection of the way we worked at that time was that Governance often conferred with Elected Members and gave them feedback. The fact that the form was designed and submitted to the Department for reference, I believe, it was not approved by anyone, it was a guideline. If we, if Governance felt that there was information that we required, it could be sought in another manner.

35

What if you had discovered that, for example, the declaration that the Elected Member has completed - do you see that here in this instance, there's a cross in that box, "I declare this information is accurate"?---Yes.

40 "And that acceptance of the gift is not in conflict with the Code of Conduct or Local Government Act 1995 and will not create a future conflict of interest for me in fulfilling my position responsibilities"?---Yes.

45 Is there any obligation upon you to make sure that that declaration is in fact true?---Only if I formed a reasonable suspicion on evidence that it isn't.

Had you formed a view with respect to this particular Gift Declaration that that

box maybe ought not to have been crossed or ticked?---No, I can't recall forming a view on that. I don't recall the document itself at the time.

[2.30 pm]

5

If we can go now to the next document, please, Madam Associate. That's 16.6333. Again, Mr Mileham, it's a document completed by the Lord Mayor with the same details I've already taken you through having not been completed, do you see that?---Yes.

10

The cross alongside the declaration I just took you through a moment ago is crossed there, it's the same date and you have signed it on the same date as well?---Yes.

15

Do you see that?---Mm hmm.

So we now have the acceptance of two tickets, just based on the amounts that appear in those Gift Declaration Forms, are over \$300?---Yes.

20

Would that not give rise to - - -?---Some action?

Yes?---Yes.

25

Can you recall whether any action was taken in this instance?---As I recall it, we advised the Department.

Is this not something that you ought to have commented on the Gift Declaration Form?---I don't see why.

30

Why? Because there's now risk or an issue?---Sorry, where would I comment? In the comments - - -

Immediately above - - -?---Risks/issues?

35

- - - where your signature - yes, see?---Mm hmm.

Should that not have had a note from you?---It's not required.

40

No, but should it?---Not at the time, no.

Why?---We were in the process of collecting information to see what action was indicated.

45

But here the action surely would be that this appears to be the acceptance of a prohibited gift?---I think it's pretty clear that it's in the far past and we needed to take some action. What the risks are, are not yet clear. Would I like to characterise this as collecting information that has been - as it said, we started from

the date in the previous year under the previous CEO, under which gifts have been seen as completely acceptable and our assessment of the law at the time was that was an error and we were in the process of correcting that error.

5 The TRIM number for that last document was 21274.

COMMISSIONER: Thank you.

MR URQUHART: The next document, Mr Mileham, is 6335, Madam Associate.
10 TRIM number, sir, 21272.

COMMISSIONER: Thank you.

MR URQUHART: Again, just have a look at that. You can see that those areas
15 that had not been completed in the previous two are not completed in this one either?---Yes.

And again, the same declaration has been crossed as well?---Yes.

20 And all that you've done, it seems, is date it and signed it?---And received it.

And received it, yes, and then forwarded it on to - - -?---Governance.

The Governance unit?---Yes.

25

In hindsight now, should have some other action been taken by you?---We were using a generic form for a different purpose than its intent so my answer to that would be, if the exercise were conducted again, we would do it differently. The exercise in train at this point was not a standard procedure for Gift Declaration, far
30 from it. It was a recovery from a completely illegal situation that had given rise - had come about due to the, shall we say, inaccurate interpretation of the regulations in this space.

35 Might I suggest to you then, Mr Mileham, in those circumstances, it was even more important that these declaration forms be completed in their entirety?---The most important thing at that time, in my view, was to get an assessment of the situation and the quantum and then to look at the action. We used the forms, as I say, in hindsight, probably the wrong form, not designed for that purpose.

40 So you don't agree with that proposition I put to you?---That the forms should be filled out in - - -

45 All the more reason for the forms to be completed entirely and as accurately as possible?---No, I don't think that was the key objective at that point. The key objective was to identify the quantum and in fact, we identified we had an issue that we needed to communicate with the Department about.

So first and foremost, the quantum - when you say quantum?---Yes.

Are you talking about the number of Gift Declarations that had to be made?---The dollar value.

5

And the dollar value of them?---Yes.

Of all the information that appeared on these Gift Declaration Forms - - -?---Of as much information we'd gather in a short time.

10

- - - was the dollar value the most important?---Was it? Was it the most important? The cumulative dollar value for individual providers, yes, to individuals so that we could assess what we were facing because to that point we had zero information.

15

The next form that was completed by the Lord Mayor and dated the same date, 23 March 2016, is 6337, thank you, Madam Associate. TRIM number, sir, 21275.

COMMISSIONER: Thank you.

20

MR URQUHART: Again, this still relates to the Perth Fashion Festival. There's amounts given and again the same boxes that haven't been completed previously haven't been completed there, do you see that?---Yes.

25

And we see now though, don't we, that the monetary value is increasing all the time?---Yes.

Heading towards \$1,000 now?---Yes.

30

And the next form now is 6339, thank you, Madam Associate. TRIM number, sir, 21270.

COMMISSIONER: Thank you.

35

MR URQUHART: Same again, do you see that?---Yes.

Then 6341 now, Madam Associate. TRIM number, sir, 21271.

COMMISSIONER: Thank you.

40

MR URQUHART: That's yet another form that's been completed by the Lord Mayor with respect to attending a Perth Fashion Festival event the previous year, do you see that?---Yes.

45

And then there's one more, 6343. TRIM number, sir, 21276.

COMMISSIONER: Thank you.

MR URQUHART: There you go?---Noting that the effect of these additional sums was - occurred in 2015 so as I've said, it was an information gathering exercise to rectify a situation that had arisen before my assumption of the role.

5

Certainly, but these dollar amounts were important in determining whether any Elected Members had financial interests, for example, they needed to declare at future sponsorship applications by the same organisation?---It enabled us to post to that form, do an assessment and create correspondence to the Department and seek exemptions for that purpose.

10

Because the total figure there of those ticket values, just using the amounts on those forms for the Lord Mayor, was in excess of \$2,000?---And there may well have been other undeclared matters that we researched and found as well. So the forms form the component of a search and destroy mission, for want of a better term, to hunt down all of those matters that had been lost prior to my taking the role.

15

We would have seen there with respect to those Gift Declaration Forms that the Lord Mayor completed a separate Gift Declaration Form for each event that she went to?---Yes.

20

Do you accept that was the appropriate course of action to take?---What's not clear from the form and perhaps - - -

25

Are you to just answer that question and if you want to make a comment after - - -?---Could you repeat the question?

Yes. We can see that the Lord Mayor has completed a separate Gift Declaration Form for each event that she attended that was put on by the Perth Fashion Festival in 2015?---Yes.

30

Do you agree with me that is how it ought to have been done, that she should complete one form for each event that she went to?---It's probably appropriate depending upon what task she undertook at each individual event. One may be where she Chaired or spoke or one where she just sat. So in the actual assessment of the value, one must look at the offset of the value given. So while the ticket may cost \$250, the Lord Mayor appearing and speaking may be a quid pro quo. So I think each individual declaration is probably an appropriate way to go.

35

40

But not just for the Lord Mayor, for - - -?---For any Councillor.

- - - any Councillor, whether they are giving speeches or not?---Yes.

Might it have been the case, Mr Mileham, that with this large influx of Gift Declarations you received on or about 30 March, that given the work involved to carefully scrutinise each one, that it may have just been, because of time

45

constraints you, for want of a better term, rubber-stamping the forms without giving the sort of attention to the forms that in an ideal world you might have?---No, the opposite. It was an information gathering process that I wanted to get from the Elected Members as quickly as possible, the information we needed and registered as received, because the timeframes were important, but to register
5 and receive that information and then assess it. So rubber-stamping would be if someone in the normal course of things, just waved things through.

Yes?---This was a deliberate process of information-gathering and I accept, with
10 probably not the smartest or best form for the purpose, to gather together and collate information that had not been sought, nor given, and we believed it was urgent to do so.

Mr Mileham, I just thought I would give you the opportunity - - -?---Thank you.
15 - - - of accepting that proposition before I showed you some other forms?---Okay.

Because there are still further ones to show you?---Mm hmm.

20 So you still want to stick to that answer that you've given?---What do you mean?

Well, the answer you've just given to the question I asked you?---Yes.

You do, okay?---Well, in terms of this particular exercise, it was important that we
25 got the information together quickly.

Yes, but accurately?---As accurately as we could get it and as I've said, the form is a guideline in the policy and even in its process, it doesn't have a legislative requirement to fill every box.
30

No, I appreciate that. I've given you the opportunity so I'm going to show you another Gift Declaration Form that you have signed. I will ask you some questions about it once we see it up on the screen. Madam Associate, this is 6375 and it's TRIM number, sir, 21256.
35

COMMISSIONER: Thank you.

MR URQUHART: This is a handwritten form that's been completed by then Councillor Davidson?---Yes.
40

Do you see there that it also relates to the Perth Fashion Festival from the previous year?---Yes.

Do you see there that, in the line towards the top which says, "Date gift was offered", she has indicated no less than four dates?---Mm hmm.
45

And in one instance she's done, "19 times 2" and then continued,

"20/9/2015"?---Yes.

It would be apparent, would it not, that she's referring to four events that she went to at the Perth Fashion Festival in September of 2015?---Yes.

5

And that on one occasion, it appears she had two tickets?---Mm hmm.

Meaning a total of five tickets, okay?---Yes.

10 For the value of the gift, it has been handwritten in, "\$100-plus"?---M'mm.

And there's no information as to a contact person or contact details. It's been ticked that the gift has been accepted, see underneath step 2?---Yes

15 [2.45 pm]

And the tick alongside, "I declare this information is accurate" et cetera, et cetera?---Mm hmm.

20 And, "Date of acceptance", it's the same dates that appear above, do you see that?---Yes.

And then she's signed it and the date reads, "September 2015" and then you have signed it yourself and dated it 30 March 2016?---Yes.

25

And indeed, we see on that form, right at the bottom, see underneath step 4?---Yes.

We see written in, "Version 2, 9 March 2016"?---Mm hmm.

30 So obviously a version that was created after you were appointed Acting CEO?---Yes.

Given the fact that you have stated that it was important that these forms "offered sufficient information for our purposes" and you've also said that "the monetary value was one of the important matters that needed to be accurately recorded", do you accept there the description, "Value of gift: \$100-plus" was inadequate?---It's not accurate, not as accurate as the other ones.

35

No?---Yes.

40

Because we know from Ms Scaffidi that she attended events at the same Fashion Festival?---Yes.

On three of those dates, 17, 19 and 20 September and for those tickets, she stated that the estimated value was upwards of \$450?---Yes.

45

So is this a Gift Declaration Form that should not have been then forwarded on to

the Governance unit after you signed it?---It's a declaration by the Councillor, received by me and passed to Governance.

I know all that?---Yes.

5

But should it have been forwarded on to Governance by you with that information on it?---Absolutely.

Why?---If there's any issue there, it would be quality checked by Governance.

10

Why would it be the responsibility of Governance and not you?---To advise me if there's any further action required of me, but as I've said, the forms themselves are designed for the Elected Members to make a declaration which they say is true.

15

Yes?---My signature is there to receive it.

Or in this instance here, as a rubber stamp?---No.

No?---No.

20

If it was something more than a rubber stamp, Mr Mileham, weren't you required to have a look - - -?---Yes.

- - - at what's been completed on the form?---I had a look at every form that was signed by me.

25

You may well have, but it would appear that you've signed this form and forwarded it on to Governance with that inadequate amount appearing in the, "Value of gift" box?---I've forwarded it to Governance with the Elected Member's statement.

30

You've agreed with me that that was an inadequate amount?---I don't know. It appears to be.

35

It clearly is, is it not?---Clearly is your view, it could well be the Elected Member sat in the peanut gallery, I don't know.

Is that your understanding of the - - -?---No, it's not my understanding, what I've said is - - -

40

Let me finish - of the tickets that were provided to Councillors as part of a sponsorship arrangement prior to 2016?---Yes.

That was your understanding, that they could get seats in the peanut gallery?---No. The reality of the situation is, there's many different ticket prices. There's also the issue of quid pro quo. The Councillor may have valued her attendance at some value. It's her declaration.

45

This is interesting. So it's up to the Councillor, is it, to give a value of the event or item they have received free of charge?---It's my understanding it's their responsibility to ascertain the value.

5

But you just said there, they might not have valued it as much as the price of the ticket?---The price of the ticket could be irrelevant.

Really?---Well, I've enquired when invited to events and been told the ticket value is zero and I've had to insist on a value being given and finally being told, after some argument, it's \$250. So the Councillor may have been told by the organisation, it's \$20, I don't know.

10

I want to use an example now of what you've said there regarding the Councillor's generally prerogative to put down a value less than the gift. What if a Councillor was to receive a \$200 bottle of wine, tasted it and thought, "I wouldn't pay for than \$10 for this"?---You would have to ask the Councillor that question.

15

No. Would you accept then a Gift Declaration Form in which the value of that bottle of wine was given at \$10?---It's a hypothetical question.

20

Yes, it is?---I'd have to look at the situation.

Exactly it's a hypothetical question. Would you just accept that?---I wouldn't necessarily if I saw a bottle of red wine valued at \$10 and asked them what brand it was, no.

25

What if the description was given? What if it was a Penfolds Grange and then they said, "No, I didn't like the taste of that, I'm going to put it down at \$49.95"?---It's up to the Councillor.

30

And you would sign-off on that Gift Declaration Form, would you?---I would receive it.

Yes, and would you sign-off on it?---I would receive it and sign it and pass it to Governance.

35

Really?---Yes.

Without any comment under step 3?---I may have a comment.

40

What would that comment be?---I don't know, it's a hypothetical question.

Mr Mileham, surely in that hypothetical situation in which you're aware that the description of the gift is a 2000 year Penfolds - - -?---\$2,000?

45

2000 year Penfolds year Grange and the value of the gift has been completed at

\$49.95, you got that; are you seriously saying you would simply sign that form and forward it on to Governance?---I can give you an actual example rather than a hypothetical.

- 5 No, I want you to stay with that example, please, for the moment?---I would sign it as received and pass it to Governance. I may comment, "The value may need to be checked. ".

10 COMMISSIONER: Mr Mileham, you described this to me earlier as an information gathering exercise?---Yes.

And you said to me that one of the reasons for doing that in the way that it was done was to seek an exemption from the Department?---The initial reason was to see what the ground was, yes.

- 15 But your evidence was to seek an exemption from the Department?---Ultimately we had to seek an exemption when we found out what the ground was.

20 So what were you exactly seeking an exemption for?---Well, to allow a quorum in matters that might come before Council.

But presumably you were seeking an exemption of a particular kind?---Yes.

- 25 What was it?---To allow members to participate in debate and vote.

And to do that, was it going to be necessary in your view to inform the Department of which members would need to be exempted in that way?---We would have to inform the Department of our opinion in that fact, yes.

- 30 No, stick with my question, please?---Yes.

Was it necessary in your view to seek an exemption in respect of particular members?---It became apparent, yes.

- 35 And to do that, did you think it would be necessary to provide some information to the Department about the gifts which had been received by those members?---Yes.

Did you consider it necessary to provide to the Department some detail of the value of those gifts in respect of each Elected Member?---In some detail, yes.

- 40 So that the Department would be armed with which member, what gifts and how much?---Yes.

- 45 If we look at this form here, the one in front of you at the moment, and we take that as the purpose of acquiring the information from these Elected Members in that way, what was the value of these gifts on this form?---I cannot recall.

Have a look at the form?---It says \$100-plus.

So in theory, that could be any number above \$100?---Yes.

5 It could be \$1,000, couldn't it?---Unlikely but possible.

It could be, on this valuation?---Yes.

That's what plus means?---Yes.

10

It could be \$10,000?---Yes.

Or it could be \$101?---Yes.

15 Isn't the problem with this value that's written there, that you don't really know anything about the value other than it's not less than \$100?---We do know that it's not less than \$100, I accept that. That said - - -

20 How is that going to be useful information for the Department when considering whether to grant an exemption?---That wouldn't be offered solo. The form has elicited the fact that we have now a date in September when five events are attended and my recollection is these forms are not taken on face value by Governance. Once they are received and processed, I believe we wrote to the Department and made some assessments of value that may not have been what the
25 Elected Members declared they were.

Do you know that for a facts or are you just speculating?---I recall our letter to the Department had values attached. I can't recall whether they were the same values as the Councillors declared or ones that we ascertained from looking at the facts.

30

If we look at this form here, "Date the gift was offered", it's been put to you by Mr Urquhart that Ms Davidson attended an event on the 17th and an event on the 18th, an event on the 19th and an event on the 20th?---Mm hmm.

35 And that there were two tickets for the 19th but as you've just indicated in one of your answers, in fact, it might be two events on the 19th, so it could be four or five events, couldn't it?---I think we said five.

40 17, 18, 19, 20, so that's four if you just go on one event per date?---Yes, but you said 19 by two.

That's right, so it could be two events or two tickets to one event?---Could be.

45 So in this form, you don't even have an accurate statement of the number of events, do you?---No.

You have no accurate statement of the number of events, you don't have an

accurate statement of the value of gift; do you still say it was okay just to sign it and send it off?---Well, to characterise it as just signing it and sending it off is not entirely accurate, that's my view.

5 Because you read it before you signed it?---Well, it was received.

Did you read it before you signed it?---Yes.

10 If you read it just like I have now, was it not obvious to you that this was not adequate?---As I've said, my view at that time was that we were gathering information to begin a proper - - -

Yes, but I'd like you to answer my question?---Yes.

15 When you read it and signed it, was it your view that the information on this form was adequate?---For our purposes at the time.

No, was it your view that the information on this form when you signed it, after having read it, was adequate; that's a simple question?---No.

20 No what?---No, it wasn't adequate in itself.

Then, if you didn't think it was adequate, why did you sign it?---To receive it only.

25 Thank you, Mr Mileham?---It's a step in the process.

I understand your answer, thank you. Mr Urquhart.

30 MR URQUHART: Thank you, Commissioner. What is written on the document suggests that it's more than just an information gathering exercise, is it not?---What is written on the document?

Yes?---What do you mean by that? I don't understand.

35 Why don't you have a look at it and see what I might be referring to?---Yes.

I will give you a hint, it's right at the very top on the left-hand side?---There's information there - - -

40 Under, "City of Perth", do you see that?---Yes.

Read that out?---Which bit?

45 Under, "The City of Perth"?---:

The Local Government Act 1995, Local Government (Rules of Conduct) Regulations 2007, regulation 12, Council Policy 10.1, Code

of Conduct. Governance use only .

Et cetera.

- 5 Yes. It's more than just an information gathering exercise, was it not?---As I've said, this process elicited information that we did not have.

It was also to ensure compliance with the Local Government Act, Local Government (Rules of Conduct) Regulations 2007, regulation 12 and Council
10 Policy 10.1?---Yes, part of a process, as I've said.

Do you agree with me?---Part of a process.

[3.00 pm]

- 15 Do you agree with me that the completion of this form was supposed to comply with that Act and specifically that particular regulation and the Code of Conduct?---To aid in compliance, it is not sole compliance.

- 20 Do you agree with me or not?---Would you restate your contention then.

That you say this was an information gathering exercise but it was also a form to ensure compliance with the Local Government Act, the Local Government (Rules of Conduct) Regulations 2007, regulation 12, and Council Policy 10.1, Code of
25 Conduct?---To assist, not to ensure.

So you don't agree with me then?---No.

- 30 That it wasn't to ensure compliance with those?---No.

Then why were they there?---The form is there as a tool - - -

Why were those three lines there then?---You'd have to ask the form designer.

- 35 I'm asking you?---It's a reference to the information that would be required, I would imagine.

Regulation 12 deals with notifiable gifts and prohibited gifts?---Yes.

- 40 Which we have already been through?---Yes. So it enables the Elected Member to go to that section, read it, understand it, fill the form out. It's a guideline.

The details on this form, in particular the value of gift - or just that one, just staying with that one, is woefully inadequate, would you agree with me or not?---It
45 may well be.

And if it was woefully inadequate, it was incumbent upon someone, apart from the

Councillor after she submitted it, to have that inadequacy addressed?---Was it?

That's what I'm asking you?---Okay. That's your view.

5 Surely?---Who's it incumbent upon?

That's exactly going to be my next question, as long as you agree with that proposition? You don't agree with that proposition, that it was incumbent upon someone to address that particular inadequacy?---I believe it's incumbent on the
10 Councillor.

Yes, but the Councillor's already submitted the form, Mr Mileham. As far as she's concerned, she's done everything that she needs to do?---Well, that's her - - -

15 Clearly she hasn't?---That's her recognisance.

Who is it incumbent upon to make sure that inadequacy is addressed?---I don't administer the Act.

20 Mr Mileham, please. Can you just answer the question?---Put it this way, who it's not incumbent upon and that's - - -

No - okay?---Okay.

25 Who is it not incumbent upon? You're going to say yourself?---Well, I don't think it's incumbent upon me or any of the Administration to necessarily police the Elected Member.

But you see, if that form is accepted as true and accurate - - -?---I didn't say that.
30

No, I haven't finished the question. If it was - well, it's not true and accurate, is it?---I don't know.

You know - - -

35 COMMISSIONER: Mr Urquhart, Mr Mileham has been in the witness box now for some time.

40 MR URQUHART: Yes, sir.

COMMISSIONER: I'm going to take a short adjournment of 10 minutes to give him an opportunity to take some rest. I will adjourn for 10 minutes now.

WITNESS WITHDREW

45 (Short adjournment)

HEARING RECOMMENCED AT 3.15 PM

MR Martin Nicholas MILEHAM, recalled on former oath:

5 COMMISSIONER: Yes, Mr Urquhart.

MR URQUHART: Thank you, Commissioner.

10 Mr Mileham, in the scenario in which a Councillor has submitted a Gift Declaration Form and the scenario in which there is inadequate information on that form, who bears the responsibility for ensuring that inadequacy is rectified?---I think the ultimate responsibility rests with the Elected Member. However, information could be provided to that Elected Member to assist them with that.

15 So who ought to have done that with respect to this particular Gift Declaration here and the inadequate value that's been given?---Well, my recollection on that one, and it's vague, is that it does look like \$1,004 not \$100-plus, but anyway, where it's noted, it says, "Note the details provided are based on information disclosed in regards to this declaration", and this particular one, as I say in that
20 process, when we were looking for information about who, when, what, I'm pretty certain that Governance, once it received this and logged it together, would have assessed that information, in fact I know they did often time check some of these documents - - -

25 Mr Mileham - - -?---Whether they got back to Janet Davidson, I don't know.

- - - this document - it didn't happen for this document?---I don't know.

30 No, it didn't. Assuming it didn't, so who bears the responsibility then for failing to ensure there was an adequate value given to this gift?---Well, if \$100 is the value that was entered, that's the value declared. Who bears - sorry, what was the question again?

35 Who bears responsibility for not ensuring that information there was adequate?---I believe it's the Elected Member.

40 But Mr Mileham you forget, I gave you this scenario on the basis that the form has already been submitted. Just to go one step further, the form hasn't been returned back to her, so who is responsible?---I'm afraid I have to stick to my belief that it's the Elected Member's responsibility to get it right.

Move on from there, she hasn't got it right, she's providing inadequate information. She submitted to you?---Yes.

45 Who bears the responsibility for making sure that inadequacy is rectified?---I think the declaration speaks for itself. It says that the information - - -

Mr Mileham?---Yes.

I'm sorry, sir, the question is not going to go away?---Yes.

5 Because it's important for this Inquiry?---Yes.

With respect to recommendations it might make and other things, that we get an answer from you to that question?---Yes.

10 It's a pretty straightforward question?---Yes.

So I'd like you to answer it, if you can?---The best answer I can give you is that the Elected Member's responsible for the accuracy of the declaration.

15 Okay. I will try one more time - in fact, I'm going to try it three or four more times if need be, because I want you to address the question?---Mm hmm.

In the circumstances where the Councillor has not completed adequate information and has submitted the form to you, who has the responsibility in that circumstance of making sure that inadequacy is rectified?---What was the word you used
20 "obligation", was it?

COMMISSIONER: "Responsibility" is the word.

25 MR URQUHART: Responsibility?---I bear some responsibility for advising the Councillor.

Sorry?---I think the Administration would bear some responsibility to provide - - -

30 Of which you were a part of?---Yes.

So it was your responsibility?---No, not solely, no.

Was it not?---No.

35 No?---No.

If it's not your responsibility, whose responsibility is it then?---It's the CEO's responsibility to give information to the Councillors so that they can do their job.
40 If additional information would have helped that be filled out better, then that would be my responsibility.

Indeed, in ideal situation, would you accept that the value that's been given there is something that should have been addressed?---It could have been checked, as I
45 said.

Yes. I drew your attention to the top left-hand corner of that declaration form

which refers to the Local Government (Rules of Conduct) Regulations 2007, regulation 12, do you see that?---Yes.

I will just read out to you what sub-regulation (5) says:

5

The CEO must maintain a register of gifts in which details of notices received under sub-regulation (4) are recorded.

10 Sub-regulation (4) refers to notification of acceptance of notifiable gifts, okay?---Yes.

So do you understand then that in fact there's a legislative requirement that the CEO maintain a register of gifts in which details regarding those gifts are accurate?---Based on the information provided, yes.

15

But the CEO ought not just accept without question a Gift Declaration Form in which the value is such as this one, not particularly comprehensive, it just reads, "100-plus"?---That could be questioned.

20 And in an ideal world, ought to have been?---In an ideal world, the declaration would have been deadily accurate.

Yes, and if it wasn't, then steps taken to ensure that it was?---Yes. As I said, in an ideal world it would be deadily accurate, the entire process.

25

But you see, in this situation you keep referring to how important these forms were for determining whether exemptions need to be sought?---Mm hmm.

30 But you see, Mr Mileham, if this form is accepted as accurate, then the gift received by Mrs Davidson, and correct me if I'm wrong, would be recorded as the value as \$100?---Well, it's processed by Governance as I said, and it depends upon, if there was any obvious information to the contrary.

35 If it just read through unchanged, it would read, on the Register, the Gift Register as \$100, would it not?---It may have read as \$1004. I don't know what this one ended up at.

You agree with me, it's not \$1004?---I don't know what this one ended up as.

40 COMMISSIONER: But we do, because someone has told us what it means?---Okay, I can accept that.

MR URQUHART: As I understand the Gift Register forms, there's no plus amounts written, it's just the actual amount?---\$100.

45

Yes?---Okay. So that's the entry issue.

But that being the case then, there would be no need for the Council to seek an exemption for this particular Councillor if an exemption was to arise from this Gift Declaration Form because it's - - -

5 MS SARACENI: Commissioner, I have an objection in relation to the fact that this form lists - - -

COMMISSIONER: I will hear it in the absence of the witness, thank you.

10 MS SARACENI: Sorry.

MR URQUHART: Maybe I could just - - -

COMMISSIONER: Mr Mileham - - -

15

MR URQUHART: Maybe I could just hear from - sir, should I hear from Ms Saraceni?

COMMISSIONER: If you wish to.

20

MR URQUHART: I think we can proceed on this basis, sir: if in fact the Gift Register had an amount of \$100 in it?---Yes.

Take that?---M'mm.

25

That scenario, then there would be no need, would there, for an exemption to be sought for this Councillor based on this particular Gift Declaration?---If that were the totality within the 12 month period.

30 Yes?---Yes.

However, if an accurate amount was recorded and the evidence is before the Inquiry that the value of these tickets was actually in the vicinity of \$900, then it would be clear, would it not, that an exemption would be required?---Yes. As I've said, the valuation of the Elected Member could take into account other matters. I don't know where she's got the value from.

35

Mr Mileham, I do like to draw your attention now to what the City did with respect to exemptions in 2016. A number of documents have been provided to your legal representatives with respect to that precise matter. The first letter I want to take you to is one that you wrote to Mr Brendan Peyton, the investigation's Unit of Governance, dated 7 June 2016. We will get it up on the screen. Madam Associate, this is 16.6669, TRIM number, sir, 24321.

40

45 COMMISSIONER: Thank you.

MR URQUHART: Mr Mileham, that's the first page of a seven page letter. Have

you had the opportunity of perusing this in more recent times?---Yes.

Mr Ridgwell has given evidence that he helped prepare the draft for this?---Yes.

5 Submitted it to you and then you subsequently signed it?---Mm hmm.

So if we just go down to 6670, so just the next page. A number of matters regarding sponsorship applications are identified in this letter as giving rise to financial interests, do you see?---Yes.

10

I don't want to go - I'm not going to take you through every single one but we will just see there on the second page, one is the Australian Hotels Association awards, do you see that?---Yes.

15 The next one there is Hopman Cup which I will come back to. If we go to 6671, there is the Perth Concert Hall, WA Symphony Orchestra, WASO for short, which we will address briefly. Then the next one is the Perth Convention Bureau which I shan't bother with and if we go over the page to 6672, it's PIAF, or the Perth International Arts Festival which I will ask you some things about. Then the one
20 underneath that is PrideFest which I won't. Then 6673, Tedxperth, again I won't be asking you any questions regarding you that one. Next is Telstra Perth Fashion Festival which you might appreciate, I'll be asking you some questions regarding that. 6674 is the WA Opera and WA Business News which are the last two items. If we just go on to 6675, which is the last page, that is the continuation of the
25 matters regarding WA Business News which I won't be asking you any questions about. So that's that seven page letter and Mr Mileham, if you recall, again having read that letter before, the City was seeking exemptions for all those matters with that one letter, is that your recollection?---Yes.

30 [3.30 pm]

However, the correspondence you got back from the Department was that you need to make a separate submission for each particular one, does that sound - -
-?---Yes, I vaguely recall that.

35

There was provided to your legal representatives some emails and letters which confirmed that?---Yes.

40 And if you can't recall, that's fine, I'll take you through it but it became evident - I will take you to one letter, it might be best. So 6679, thank you Madam Associate. This is TRIM number, sir, 24343.

COMMISSIONER: Thank you.

45 MR URQUHART: So this was the response that you received from the Department of Local Government from Mr Murphy, the Acting Director of Local Government Regulation and Support. I will just give you the opportunity to have a

quick refresh of your memory regarding the contents of that letter?---Yes.

So he's advising you that blanket approval can't be sought, and that appears in the third paragraph and that further:

5

Additionally, approvals can only be granted when it is known that a quorum would not be present.

Do you remember that?---Yes, I have a recollection that was an issue.

10

And that appears at the last sentence in the third paragraph there?---Mm hmm.

Then with that information in mind, the City then sought an exemption for a number of Councillors regarding the WASO sponsorship application that was coming up?---Mm hmm.

15

And the Department wrote back and said, "No, we will give one exemption to one Councillor and that will give you a quorum for that meeting"?---Yes.

20

And that ended up being Councillor McEvoy?---Okay.

Does that accord with your memory?---I'm afraid I don't have a great recollection of the detail.

25

The information that's been provided to us from the City is that was the only exemption that was granted?---Mm hmm.

With that contextual background, I just want to ask you some things regarding what happened with those organisations that I highlighted for you in that letter?---Mm hmm.

30

Are you with me?---Yes.

So we will just go back then now, if we may, Madam Associate, to that 7 June 2016 letter.

35

COMMISSIONER: 16.6669.

MR URQUHART: Thank you, sir.

40

So if we go then to 6670 and this deals with the Hopman Cup, Mr Mileham, and we see there at the bottom of the page that there were four Councillors who had a closely associated person interest or financial interest in this matter each year until the end of their term and their full length as serving members as they accepted the following gifts from the Hopman Cup exceeding \$200, do you see that?---Yes.

45

And to put that in context, that was a result of these Councillors receiving a

number of tickets to the 2016 Hopman Cup which was held in January, which was before matters arose regarding the requirement for Councillors to declare free tickets as gifts?---Mm hmm.

- 5 And all these Councillors retrospectively completed Gift Declaration Forms in those amounts?---Yes.

I can tell you, Mr Mileham, that all these Councillors declared financial interest in the 2016 Ordinary Council Meeting that considered the sponsorship application for the Hopman Cup for the event that started 2017, okay?---Yes.

So it seems the procedure that was set out in your letter as being required was actually carried through with respect to that?---Yes.

- 15 However, at the Ordinary Council Meeting the following year, in 2017, before the October elections, not one of them declared a financial interest, and that would seem contrary to what appears in that letter there?---Yes.

Do you see that?---Mm hmm.

- 20 Are you able to offer an explanation as to why that occurred?---No.

Was it your understanding that a declaration of a financial interest ought to have been made for the duration of their term as per that letter?---That was my understanding.

- So can I ask you this - again, this comes back to responsibility - in those circumstances, and it could be more than one person but who bears the responsibility for ensuring that the Elected Members on that occasion made a declaration of a financial interest?---Again, the declaration rests with the Elected Member but given the fact we were aware of it, Administration was aware of it, we could have assisted with that.

When you say Administration?---Myself as CEO.

- 35 Yes, and anyone else?---Governance.

Mr Ridgwell's given some evidence about a portal called a hub?---Yes, Council hub.

- 40 Is that something that's familiar to you?---Vaguely, yes.

He advised that in fact someone could go there, for example, an Elected Member and see what interests they had in a matter?---Yes.

- 45 Having questioned some Councillors regarding that, they seemed somewhat vague about their awareness of the existence of such a portal that could provide them

with this type of information?---Yes.

5 So with the advantage of hindsight, how could this be avoided?---Well, the hub was set up for that purpose, so that Councillors could check in from time to time because they were - we all were, I guess, learning the detail. How could it be avoided in the future? Some form of automation of this process because I think it relies a lot on manual processes, memories.

10 And maybe a process whereby it's drawn to Elected Members prior to a meeting coming up that it would appear they have an interest of some sort?---Certainly some form of automation where - - -

15 That would be done?--- - - - a flag, a red flag came up when a matter came before Council that, as we know, these were recurrent sponsorships so it stands to reason that you could set up some kind of automation.

That happened with respect to the Hopman Cup?---M'mm.

20 And then if we go, Madam Associate, to 6672, for the Perth International Arts Festival, do you see there, particularly with respect to Mr Adamos, that he was regarded as not just having a financial interest, but also a closely associated person interest in this matter, do you see that?---Yes.

25 So he appears in both tables?---Yes.

Again, he disclosed the financial interest that he was required to do in 2016 but then he did not do it at the Ordinary Council Meeting in 2017?---Yes.

30 So the Hopman Cup wasn't an isolated example. Then finally, with respect to the Telstra Perth Fashion Festival, now, Madam Associate, 6673. There's two tables there, one that has four Councillors named as having "financial interests in this matter each year for their full length as serving members as they accepted the following gifts from the Telstra Perth Fashion Festival" and they are named and then Councillor Yong was identified as being a closely associated person. Again,
35 it would appear from the records that there were some declarations of a financial interest by some Councillors. For example, Councillor Yong had done it in 2016?---Yes.

40 For the Perth Fashion Festival sponsorship application but didn't do it in 2017?---Ah-ha.

45 Councillor Yong was able to give an explanation for that and as a result the Inquiry was able to obtain an email which may have provided some support for his recollection of events. So I'm just going to show you that email and ask for your comments. You didn't send this email and I don't think you were copied in on it but it might provide an explanation as to why these discrepancies occurred?---Okay.

Okay?---Yes.

5 This document - Madam Associate, just bear with me for one moment - this will be 16.0947, please, Madam Associate. TRIM number, sir, 24889.

COMMISSIONER: Thank you.

10 MR URQUHART: We will start at the bottom, Mr Mileham. I don't - no, you would not have had an opportunity of seeing this email - you may have you may not but never mind, I'm going to take you through it?---Yes.

15 At the very bottom is 10 October 2016 and Mr Ridgwell has addressed an email to Councillors, including the Lord Mayor regarding, "Tomorrow's Council meeting" which reads:

20 *Please find attached a disclosure of interest form. Can I please ask that you review the agenda papers for the Council meeting and undertake the necessary disclosures you wish to make and return to [REDACTED] at your earliest convenience. The responsibility to complete a declaration rests with each of us individually. However, please do not hesitate to contact me directly should you wish to discuss a particular matter.*

25 So he sent that email at 10.47 and then he sent another email to four Councillors at 10.55 am. Madam Associate, if we could go to 946 now, please. At the bottom there again at 10.55 am it reads, "Dear Councillors", do you see that?---Yes.

30 :

It has been identified that you have a direct financial interest in item 13 of the Council agenda. Can you please complete the attached disclosure of interest form and return to myself.

35 Then he identified that as being the Hopman Cup tickets and indeed, he identifies Councillors Yong and then if we go to the next page at 947, thank you, Madam Associate, Councillors Adamos, Chen and Davidson?---Yes.

40 Indeed, they did complete their declaration of financial interest forms, submitted at the next Council meeting and they excused themselves during the Hopman Cup consideration of the sponsorship application for that event?---Yes.

[3.45 pm]

45 Councillor Yong then sends an email to Mr Ridgwell on this same day, 10 October. So I'm going to take you back now to 946. It starts off:

Hi Mark, for clarification purposes please advise if all EMs previously attended City's sponsored event must declare interest for the rest of their term as Councillors. Interested to know the reason. Much appreciated, Kind regards, Cr Keith Yong.

5

From what we have been through, Mr Mileham, the answer to that question should have been, yes?---Provided they were proven, yes.

10 We can see up the top of the page there that Mr Yong has CCed in those three Councillors who had the Hopman Cup financial interest. Do you see that, Councillors Adamos, Chen, Davidson and he's also CCed in Cathryn Clayton?---Yes.

15 Who I think was - was she in Governance at the time?---Governance Officer, yes.

Thank you. We go to 945 and we can see the response from Mr Ridgwell, sent on the same day, in fact, just a short time after that email from Councillor Yong, about 31 minutes:

20 *Hello Councillor Yong - it reads "on" but really, I think that's a typo and Mr Ridgwell agrees it should read "only" - Only those Elected Members who have received a gift over \$200 in value in the past 12 month period.*

25 Do you see that? So bearing in mind the question from Councillor Yong was what Councillors have to declare a financial interest and for how long. So Mr Ridgwell has said that could be read the wrong way?---Yes.

30 And you see how it could be read the wrong way by Councillors?---It could be read the wrong way, yes.

35 So it provides an explanation as to why Councillor Yong didn't make financial interest declarations which it seems he was obliged to continue to do in 2017?---Yes.

With the 12 month period having expired in January of 2017, because he received the Hopman Cup tickets in January of 2016?---Yes.

40 And logically, he could rely on that and do the same for other matters in which he had a potential financial interest?---I guess if he misunderstood the regs, yes.

Yes, or - - -?---Or construed that to mean advice.

45 Yes. Bearing that in mind though, it still ought to have been the case that someone ought to have advised Mr Yong that he had ongoing financial interest with respect to some of these matters because he was coming up for re-election in October 2017?---Yes.

Do you agree with that?---What, that somebody should have brought it to his attention?

5 Yes?---I did have some contention with the letter we wrote in the first place to the Department because we said "have" and we should said "may have exposed themselves." I don't believe the findings were - it's not our, Administration's role to make a finding, we can have an opinion.

10 Yes?---So I would question whether - it's a difficult one because my recollection again of the advice we had, and this is from Neil Douglas, he would never comment on a specific case or a generality without knowing all of the matters. So I think to give advice, just say, "You have a conflict in perpetuity or for the term of your acting as a Councillor", that advice might be given in good faith but it might
15 be wrong.

Yes?---So I can accept that. A Councillor might see advice from the Administration as being biblical in its application, but, it's an opinion.

20 That's why I asked you earlier on about what your view was regarding the complexities of these provisions?---I believe it's quite complex.

Yes. Just wait there for one moment, Mr Mileham, while I just see if there's anything else I need to raise with you. Thank you, Mr Mileham, that's all the
25 questions I have for you. Thank you, sir.

COMMISSIONER: Thank you, Mr Urquhart. I will now hear applications. Mr Malone, do you have an application?

30 MR MALONE: No, we don't, Commissioner.

COMMISSIONER: You're the more senior member, aren't you?

MR MALONE: I'm not.
35

COMMISSIONER: I beg your pardon, Mr O'Meara in that case.

MR O'MEARA: We have no application, Commissioner.

40 COMMISSIONER: Thank you. Mr Fetherstonhaugh, do you have an application?

MR FETHERSTONHAUGH: No application, sir.

45 COMMISSIONER: Thank you. Ms Saraceni, do you have an application?

MS SARACENI: No, we don't, sir. Thank you.

COMMISSIONER: Thank you very much. Are there any other housekeeping matters?

5 MR URQUHART: No, there's not, thank you, sir, other than to me to make some very brief concluding remarks. Certainly Mr Mileham can be excused.

COMMISSIONER: Thank you. Mr Mileham, I'm going to excuse you from the witness box for today. Thank you very much for your assistance, it's much
10 appreciated. You are of course welcome to remain in the public gallery if you wish to, to hear Mr Urquhart's concluding remarks?---Thank you, sir.

COMMISSIONER: Thank you. You may leave the witness box.

15 **WITNESS WITHDREW.**

MR URQUHART: Thank you, sir. So that now concludes this block insofar as it relates to public hearings. Next Monday, 7 October, will be the commencement date of the anticipated final block of public hearings and that block is expected to
20 take three days and will cover financial management at the City of Perth, specifically during the Inquiry's Terms of Reference, and will also consider what changes can be made in the future to address the problems that have been identified as having occurred in the past.

25 Sir, they are the brief remarks I wish to make.

COMMISSIONER: Thank you very much, Mr Urquhart. If no-one at the Bar table has anything else which they wish to raise with me at this time, I will adjourn this public hearing until next Monday at 10 am.

30 **AT 3.52 PM THE MATTER WAS ADJOURNED
UNTIL MONDAY, 7 OCTOBER 2019**

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