



7 December 2020

Public examinations into a regional housing project and employment reports

Transcript - Opening Remarks - Scott Ellis, Acting Commissioner

On behalf of the Corruption and Crime Commission, I acknowledge the traditional owners of the land on which this hearing is being held, the Whadjuk people of the Noongar nation. I pay my respects to their Elders past, present and emerging.

This week's hearing is a hearing in two parts.

The first part again involves the conduct of Paul Ronald Whyte.

Like the public hearings in November, the events the subject of this week's hearing do not involve the \$22 million he misappropriated or the events the subject of the current charges of facing Mr Whyte.

The first part of the hearing involves redevelopment by the Department of land in Roebourne for crucial police accommodation.

The redevelopment involved land which had been purchased by associates of Mr Whyte for \$440,000 in April 2011. By January 2013, less than 2 years later, the purchasers of the property had received almost \$1.3 million from the Department.

That was a return of almost 300%.

Investment in land in Roebourne during that period did not generally enjoy the same spectacular returns.

At the very best, the Department missed out on an opportunity to buy land cheaply. At worst, there was corrupt diversion of funds for housing to underwrite Mr Whyte's gambling.

The first part of these hearings will examine which of those alternatives is closer to the truth, amongst other questions.

The second part of the public hearing, which will take place on Thursday and Friday, also involves the Department of Housing. Mr Whyte is involved, but only peripherally. It will be the subject of separate opening submissions in due course

Under the *Corruption, Crime and Misconduct Act 2003* the default position is that an examination will be conducted in private.

There are good reasons for the Commission to go about its work covertly. It protects the integrity of the investigation. It protects the reputation of a person whose conduct may be subject to investigations.

However, a Commissioner may exercise a discretion to open an examination to the public if, having weighed the benefits of public exposure and public awareness against the potential for prejudice or privacy infringements, it considers that it is in the public interest to do so.

The investigation is in the public domain. Events in the Department of Housing, as it then was, are a matter of public interest.

The Commission has had regard in relation to the potential for prejudice or infringement of privacy and is obliged to take those matters into account when exercising its power under s 140.

The conduct the subject of a Commission investigation may involve criminal conduct and those involved may face criminal charges. The publicity associated with a public hearing might adversely impact on a defence in criminal proceedings.

However, the Commission acts on the basis of the material before it, rather the evidence which may be adduced at trial. In criminal proceedings a jury would, no doubt, be warned that only evidence tendered before it are relevant. The Commission does not make findings of criminal liability. The Commission does not apply the criminal standard of proof. And, as mentioned before, the events the subject of this hearing are not currently the subject of criminal charges.

The Commission is also mindful that these public hearings have the potential to infringe of the privacy of witnesses and weighs such detriment in the balance.

I stress that the fact that a person is called to give evidence does not mean that the witness is guilty of a crime or of serious misconduct. Witnesses may be called for examination before the Commission for many reasons. Many witnesses are called whose own conduct is not in question. They may be called because they can assist the Commission by giving information about events, circumstances, systems, procedures or the activities of other persons. The principle of guilt by association should not be applied.

I consider that the public interest is best served by having this hearing in public. Public awareness and scrutiny will act as a deterrent to those who might engage in such conduct and may encourage Government to be active in ensuring such conduct does not happen again.

However, at any time the Commission may close the public examination and continue the examination in private.

The Commission may make non-disclosure orders from time to time to assist in protecting the privacy of witnesses. I consider that would be appropriate in this case.

I order pursuant to s 151(3) of the *Corruption, Crime and Misconduct Act, 2003* that there be no publication of:

- a) the address or personal contact details of any person called as witness in these hearings; or
- b) or any information that that might result in the identification of the address or personal contact details of any person called as a witness in these proceedings.

The Commission may, from time to time make more extensive orders in respect of particular witnesses. I have done so in respect of one particular witness.

I also order that witnesses are not to discuss their evidence with any other witness until that witness has completed giving his or her evidence.

Ms Loo.