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INQUIRY INTO THE CITY OF PERTH

PUBLIC HEARING - DAY 125

WEDNESDAY, 9 OCTOBER 2019

INQUIRY PANEL:

COMMISSIONER ANTHONY (TONY) POWER

COUNSEL ASSISTING:

MR PHILIP URQUHART

COUNSEL APPEARING:

MR GEOFF BOURHILL and MS BELINDA RANDALL (MR Robert MIANICH)

CAV. MARIA SARACINI and MR MARTIN TUOHY (MR Martin MILEHAM)

MR WILLIAM ROBINSON and MR TRENT O'NEILL (MR Murray JORGENSEN)

.09/10/2019

HEARING COMMENCED AT 09.32 AM:

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

10 Mr Urquhart.

MR URQUHART: Thank you, sir. I recall Mr Mianich. Mr Mianich is in the back of the hearing room.

15 COMMISSIONER: Thank you, Mr Urquhart. Mr Mianich, would you please come forward and take a seat in the witness box

MR Robert David MIANICH, recalled on former oath:

20 COMMISSIONER: Mr Urquhart, are you ready to proceed?

MR URQUHART: Yes, I am, thank you, sir.

25 COMMISSIONER: Thank you.

MR URQUHART: Mr Mianich, what role did you play in the preparation of the City's 2017-2021 Corporate Business Plan?---I would have played a relatively minor role. I think there was an officer that was leading the project from the CEO's Office, I seem to recall but all Directors obviously contributed to the plan but to answer your question, I would say relatively minor.

30 What did you contribute to the plan?---In the plan there were some strategies and actions that related to a corporate function, so they would have been the ones that I mainly concentrated on.

35 What about aspects of finance, would you have been involved in that?---I don't recall particularly what finance aspects were in the Corporate Business Plan.

40 Were any?---As I said, I don't recall.

What about financial projections?---There's no statutory or legislative requirement to include financial data in the plan.

45 That wasn't the question. Were there any financial projections - - -?---I don't recall.

- - - in the Corporate Business Plan?---I don't recall.

That would have been your responsibility though, would it not?---In association with other Directors and the Finance Team, yes.

5 Predominantly you though being Director of - - -?---Not predominantly me, no.

Who would be the Director responsible for that then if it wasn't you?---Not the Director, the data would have been accumulated by the Finance Unit. I obviously would have overseen it.

10

Exactly, yes?---Yes.

So that was the extent of your relatively minor role?---I'm sorry, I don't understand the point there.

15

It's exactly that, that was the extent of what you've described as your relatively minor role?---So the role was input into those actions that would have been ascribed to Corporate and I've answered your question about, I don't think there were any - financial data in the Corporate Business Plan.

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Do you think there ought to have been?---No.

Why not?---As I said, it's not a legislative requirement. I think the data is well and truly covered elsewhere.

25

Elsewhere, where?---In the Long-Term Strategic Financial Plan which has numbers going out to 10 years and the robustness of the first 1 to 4 years in that plan is relatively high. So I think that presents ratepayers with a reasonable outlook as to the financial projections of Council over the next four years.

30

Why couldn't that be included in the four year plan that the Corporate Business Plan was all about?---Because it's a separate document, so the suite of documents that encompassed the reporting framework includes the Corporate Business Plan, an Asset Management Plan and a Long-Term Financial Plan. So the documents are there, they are public documents. There's also a Workforce Plan produced which there's no statutory requirement to lodge the Workforce Plan with the Department.

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Would you like to answer my question now? Why couldn't it be included in the Corporate Business Plan?---There was no need.

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No need?---Correct.

You know where I'm going to with respect to me asking you questions about that?---I have no idea.

45

3.1272, please, Madam Associate. This is page 4 of Mr Jorgensen's letter to you

from March?---Okay.

In particular, I want you to concentrate on paragraph 7 for the moment?---Yes, okay. Can I read it?

5

I'm going to read it out to you?---Okay.

:

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I have observed that the City's Corporate Business Plan contains no financial projections and is incapable of informing the Council on the City's true medium to long-term financial position, including appurtenant risks, challenges and opportunities.

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I gather from your evidence that you agree with that sentence?

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MR BOURHILL: Commissioner, I just rise to ask whether it can be confirmed that what's being referred to there is a Corporate Business Plan, because it doesn't appear in the letter that it relates to something that's within the timeframe under inquiry.

COMMISSIONER: Yes, of course. Mr Urquhart, are you able to respond to that?

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MR URQUHART: It's the City's 2017-2021 Corporate Business Plan which, as I understand my learned friend would have received in the bundle of documents forwarded last week.

COMMISSIONER: Thank you, Mr Urquhart.

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MR BOURHILL: Thank you.

COMMISSIONER: Thank you, Mr Bourhill. Please continue.

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MR URQUHART: So, do you agree with that sentence? I gather from the previous evidence that the answer would be yes?---I agree with no financial projections, I don't agree with the second part of the sentence.

40

What, "and is incapable of informing the Council on the City's true medium to long-term financial position"?---Yes, that's because there is, as I said, a Long-Term Financial Plan that does exactly that.

But it's not the Corporate Business Plan?---Yes. As I said, there's no need to have it in the Corporate Business Plan and as acknowledged in the next sentence.

45

:

I acknowledge that guidelines published by the Department of Local

Government do say that it is possible to prepare a Corporate Business Plan that does not contain any financial information.

5 So that was the legislative provisions that you were referring to a moment ago, is that right?---That's correct.

:

10 *However, while such guidelines may be appropriate for a small, unsophisticated the shire, a Business Plan that does not contain any financial information is clearly not appropriate for a large undertaking such as the City of Perth, turning over some \$200 million per annum.*

15 Do you agree with that?---No.

20 Why not?---Because as I've said for the third time now, that information is presented in a Strategic Long-Term Financial Plan. During the course of my work I have examined numerous Corporate Business Plans of numerous Councils in the State and I'm not aware of any Council in the State producing detailed financial information in a Corporate Business Plan.

25 Just on that, when you talk about looking at numerous plans such as that, I just want to go back to your evidence yesterday, about you looking at numerous Business Plans. I asked you this question but I don't think you gave a direct answer to it so I'm going to ask it again now that you've reminded me with that answer. Have you ever come across a Business Plan that sets out the plan for a 20 year period?---No, I don't recall.

30 Right. It continues:

The financial components of the City's Corporate Business Plan are your responsibility.

35 Do you agree with that?---Yes.

:

40 *Such a regime should be aligned to the requirements of the Integrated and Reporting Framework and Guidelines published by the Department of Local Government, September 2016. I should be grateful if you would explain how you have allowed the production of a Corporate Business Plan that does not contain any financial information.*

45 I gather you have now explained that?---Well, I think I have. Yes, I've simply been following the guidelines issued by the Department and as I've said, why would we put information in a document that's covered quite adequately in another

document, the Long-Term Strategic Financial Plan, which virtually - well, would be an exact repeat of the data that you would put there.

5 So but for what you say was in the Long-Term Strategic Plan, but for that, then the observations made by Mr Jorgensen in that letter would be appropriate?---No, I don't agree with that.

No?---No.

10 Why not?---I will have a go again - - -

You're saying - did you understand my question? You're saying that because those matters that Mr Jorgensen raised were absent from the Corporate Business Plan, you're saying, "Well, they didn't need to be in there because they were in the
15 Long-Term Strategic Plan"?---Long-Term Financial Plan.

[9.45 am]

20 Long-Term Financial Plan?---Not the Strategic Plan.

I thought you said strategic at one point?---No, you said strategic, I said Long-Term Financial Plan.

25 Okay, very good. All right, whatever it is, Long-Term Financial Plan. So you say that because those matters are in that plan - we will call it the plan - therefore they didn't need to be in the Corporate Business Plan, is that essentially your evidence?---That is a correct statement, yes.

30 Very good, but what I'm saying is if those matters were not in the Long-Term Financial Plan, then they ought to have been in the Corporate Business Plan, is that right?---How would you have matters - - -

35 COMMISSIONER: Just answer the question, please, Mr Mianich?---You're going to have repeat your question.

Mr Urquhart, just ask the question again, please.

40 MR URQUHART: If those matters were not in the plan, then they should have been in the Corporate Business Plan, is that right?---You're talking financial matters?

I'm talking about those matters that Mr Jorgensen raises in that paragraph that we have just gone through?---No, I don't agree with that.

45 Well, where should have they been then?---Everything financial should have been captured in the Long-Term Financial Plan.

Yes, and if they weren't in there, should they have been in the Corporate Business Plan?

MR BOURHILL: Objection.

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COMMISSIONER: What's the objection, Mr Bourhill?

MR BOURHILL: My friend is asking the witness in a hypothetical question. He has answered repeatedly what the position was.

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COMMISSIONER: That's precisely the problem, Mr Bourhill, he has not answered the hypothetical question and I would like him to give an answer to it, please.

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MR BOURHILL: All right.

COMMISSIONER: Mr Mianich, do you need the question repeated again?---I thought I answered the question.

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Do you need the question repeated again?---He can do, yes. That would be useful.

Do you need it repeated again?---Yes, please.

Simple question, simple answer, please?---Yes, please.

25

Right. Mr Urquhart, ask it again.

MR URQUHART: You want my question repeated to you - - -

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COMMISSIONER: Just ask it again, Mr Urquhart.

MR URQUHART: If those matters that Mr Jorgensen was raising in his paragraph were not in the Long-Term Financial Plan, do you accept they should have been in this Corporate Business Plan?---I've answered that question, no.

35

No, you haven't?---I've answered it now, no.

Right?---No is my answer.

40

Where should have they been then?---In the Long-Term Financial Plan.

COMMISSIONER: Stop there, Mr Urquhart. I gave you some advice yesterday, Mr Mianich, about how you should conduct yourself as a witness. I would like to think that you took that advice seriously. I am concerned now that you are not taking it seriously. I'm going to ask you the question. This time I would like a straightforward answer, please. You are being asked this question on the assumption that the information referred to by Mr Jorgensen is not in the

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Long-Term Financial Plan, okay? Do you understand that?---So what information is that?

Do you understand that proposition?---Yes, I do.

5

The information at paragraph 7 that you've been taken to now twice?---Yes.

Do you understand the proposition I'm putting to you, first?---I'm a bit fuzzy on it, but go on.

10

No, we need to be clear about this because I don't want you to be fuzzy about anything?---Well, I am.

I will make it plain to you: if the information in paragraph 7 that you have been taken to was not in the Long-Term Financial Plan, should it have appeared in the Corporate Business Plan?---I think I've answered that question. No, if you're talking financial information, because there is no legislative requirement to include financial information in a Corporate Business Plan.

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Do you wish to say any more about that?---No, that's my answer.

Thank you. Mr Urquhart, there's your answer.

MR URQUHART: Do you agree then with Mr Jorgensen's proposition that a Business Plan that does not contain any financial information is clearly not appropriate for a large undertaking such as the City of Perth; do you agree or disagree with that proposition?---I don't agree with the words there because the necessary financial information is contained in a separate suite of documents in the Long-Term Financial Plan.

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Do you agree or disagree with that proposition?---No.

Leaving aside what you're saying about the Long-Term Financial Plan?---But we seem to not just - - -

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Is it a yes or is it a no?---It's a no. Yes, I don't agree with the whole statement of 7.

How is the Corporate Business Plan connected to the Long-Term Financial Plan?---So there's a suite of documents. So you start with your community consultation, come up with your strategies that you're going to be looking at in terms of satisfying ratepayers' needs. That feeds into a Corporate Business Plan which articulates what the Council is attempting to do over a four year period and then the actions in the Corporate Business Plan should be reflected in the first four years' data in the Long-Term Financial Plan. The Long-Term Financial Plan of course goes out to 10 years but when officers are preparing the data, they tend to concentrate on the first four years worth of data. So the Department of Local Government is quite happy with that arrangement. That is actually their guidelines

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as to how to prepare the documents.

I want to turn now to the Long-Term Financial Plan. Do you accept that you were responsible for preparing the 2018 Long-Term Financial Plan for the City?---No.

5

And also maintaining it until you resigned?---No?

No?---No, I obviously - - -

10 We will stop there. Who was responsible then for preparing the Long-Term Financial Plan for 2018?---The Manager, Finance.

And who was he reporting to?---Myself.

15 So you were responsible, in part, for preparing that, weren't you?---I would oversee the process.

Yes, and then you would read the draft?---Yes.

20 And make sure it was all true and accurate?---To the best of my knowledge, yes.

And then responsibility for maintaining it?---The Long-Term Financial Plan is seen as a sort of live document. It's constantly - - -

25 I didn't ask you anything about that. I just wanted to know, are you responsible or partly responsible for maintaining it?---No.

Who was?---The Manager, Finance.

30 Who reported to you?---Correct.

I just want to go back to the Integrated Parking Management System that we spoke about yesterday?---Have you finished with this on the screen?

35 No, you can finish looking at it though?---Okay.

Do you agree that there was no mention of the IPMS within that Long-Term Financial Plan?---I don't recall exactly.

40 Take it that it wasn't, okay? Do you want to accept that as a fact or an hypothetical? It's neither here nor there for me but if it wasn't, do you accept that there ought to have been mention of it, given its size?---So the approach to including items in the Long-Term Financial Plan - - -

45 Could you just please answer yes or no to that and then if we need to explore it further, then I will, or your counsel will?---Well, I'm not sure it's a yes or no answer.

Give it a shot. The question is pretty straightforward - - -?---Depending on the timing - - -

5 - - - ought the IPMS be mentioned and reported in the 2018 Long-Term Financial Plan?---It's not a simple yes or no answer, it depends on the timing of the supporting data. So normally you would expect yes, but I can't remember the exact timing of events there in terms of firming up numbers. So what we would do is not put in items until such time as there was some sort of confidence with regard
10 to the quantity of dollars to put into the plan.

This was already in the annual budget, does that help you?---Okay. Well, if it's in the annual budget, the expectation would be it would be in the plan.

15 Yes. Accepting that there was not, are you able to provide an explanation for that?---No.

We can return now to that page that appears on the document screen and it's paragraph 8?---Right.

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:

25 *I am advised that in September 2018 Commissioners became aware through their own research of significant capital expenditure being proposed on projects that had been brought to their attention, and in some case budgeted, were not contained within the City's Long-Term Financial Plan for which you are responsible. In particular an email from Mr Dan Richards, Manager of Finance, points out that omissions in the City's Long-Term Financial Plan needed to be corrected by*
30 *making the following changes.*

And then they are set out but I'm going to take you now to that email of Mr Richards. Again, this is in the documents that were provided to you or to your legal representatives so presumably you've had an opportunity of having a look at
35 that. Madam Associate, if we now just go to 3.1298. TRIM number, sir, 21535.

COMMISSIONER: Thank you.

40 MR URQUHART: I would expect, Mr Mianich, you would have a recollection of this email, would you not?---Not particularly. I did see it in the package of documents you sent me.

Really, not particularly, notwithstanding its contents?---Not particularly, no.

45 Okay:

Hi Robert, I have updated the Long-Term Financial Plan as follows.

So this is after, it seems, the Long-Term Financial Plan had been signed off, correct?---I'm not sure.

5 7 September 2018, it had been done by then, hadn't it?---Probably. I can't be sure.

And signed off, if it had been, with your approval no doubt, yes?---As I said, I can't be sure.

10 You can't be sure if this Long-Term Financial Plan was signed off with your approval?---No, that's not what I said. I can't be sure. In this particular year. I have a feeling that the preparation of those documents was delayed, so that's what I'm not sure about.

15 Delayed or amended?---No, delayed.

[10.00 am]

Let's have a look here:

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I have updated the LTFP as follows: additional core systems costs of \$13.5 million over four years; increased the cost of PCEC - which is the Perth Convention and Exhibition Centre - car park subsidence works by \$5 million to \$25 million; increased the cost of IPMS by \$6 million to \$17.7 million.

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Which leads to a total capital increase there of \$24.5 million. He continues:

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Deleted the loan of \$20 million to fund PCEC. This saved \$5.5 million in interest and \$10.5 million in loan repayments. Reduced CPP revenue by \$3 million over two years. There were no other changes to operating costs. This resulted in reserves slipping to a low of \$27 million from \$60.2 million and cash falling to a low of \$45.3 million from \$80.5 million.

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These amounts couldn't be described as neither here nor there, could they, Mr Mianich?---No.

40 If we could go back now, please, to 3.1272, thank you, Madam Associate. So those three amounts that appear in 8(a), (b) and (c) are the first three dot points in Mr Richards' email to you. So Mr Jorgensen points out underneath that:

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The omissions above amounted to a \$24.5 million misrepresentation of the City's projected expenditure. As a result of these omissions, the email from Mr Richards pointing out other material errors had needed to be corrected concerning the way in which the City's loans were represented in the Long-Term Financial Plan. Interest repayments

were overstated by \$5.5 million and loan repayments were overstated by \$2.5 million.

5 Mr Mianich, these are very significant errors, are they not?---They are not errors.
As I explained previously, the development of this document - - -

10 Stop there. If they are not errors, what are they?---They are additions to the plan as more financial information has become available and it's quite a normal accounting practice to do that. Murray's comment there of omission is a false statement and there's no misrepresentation of the City's projected expenditure because it's an iterative document and I don't agree with the language used in point 8.

15 In point A?---In point 8.

Point 8, all right?---Yes. It sounds like language from a non-accountant.

20 Well, you're the accountant, you're the expert in this, but I would have thought at the very least, it was a \$24.5 million misrepresentation of the City's projected expenditure, do you accept that?---No.

You don't?---No.

25 It's a misrepresentation as appeared in the Long-Term Financial Plan before these change were made, were they not?---That's rubbish, absolute rubbish.

30 Why do you say that?---Because I've explained, it's an iterative process to develop the plan. I can take you through each one of these. Numerous work was done on developing the cost for the ERP systems - - -

Before you get to that, can I just ask you this: are you saying this is a regular feature - these are regular changes that are made to Long-Term Financial Plans, is that what you're saying?---You're obviously not an accountant.

35 Of course I'm not, I've told you that?---Yes.

But is that what you're saying?---I'm saying that Long-Term Financial Plans are constantly changed.

40 So therefore can you answer the question?---The question being what?

These changes that were made to this particular Long-Term Financial Plan are regular occurrences with all Long-Term Financial Plans?---Not these particular changes, but changes are made to the plans on a regular basis.

45

Of these significant amounts?---I don't recall of the amounts.

Let's just concentrate then on the amounts. These are significant amounts, aren't they?---There's no dispute, it's significant dollars, yes.

5 More significant than the changes that you say occur after Long-Term Financial Plans are prepared, it's fair to say?---Not necessarily.

Can you identify another Long-Term Financial Plan that you were involved in at the City that had these changes of that magnitude?---I can actually.

10 You can?---Yes. If you take the City of Perth - - -

Which year?---I don't recall the exact years, you would need to check the City records but if you let me finish, the City's library project was a good example where we had quite significant changes to capital projections. You had a \$60
15 million project over a number of years and due to various reasons the project in effect got pushed out by at least 18 months and large slabs of money were reallocated as part of the process that I've described that happens on a regular basis, to move large lumps of capital money from one year to another. There is an example for you.

20 So if it was said that errors of these magnitudes that appear in this - - -?---They are not errors.

25 All right, these corrections - corrections, okay?---They are not corrections, no. I've told you, I don't agree with the language in that - - -

He doesn't say corrections, I'm saying corrections. These must be corrections?---They are not corrections, they are updates to the plan.

30 But they are correcting the amounts that appear in the plans?---They are updating the plan.

But they are correcting them?---No, I don't agree with that word, sorry.

35 COMMISSIONER: Can we agree on the word "changes"?---Changes, yes, I will agree with that, Commissioner.

Thank you.

40 MR URQUHART: If it was said that changes of these magnitudes are deeply concerning, you would disagree with that?---No.

I'm sure you - okay, they are deeply concerning, are they?---No.

45 How about you listen carefully to the question, Mr Mianich, and we will get through this a lot more quickly?---Well, I'm trying.

No, I'm giving you the chance to reflect again, it would seem on the question you didn't listen to or understand?---I am listening to your questions.

5 If it was said that these magnitudes are deeply concerning, you disagree with you?---These magnitudes are - - -

COMMISSIONER: Changes of this magnitude - - -?---Are material, certainly. I've said that.

10 Will you not interrupt me, please. If it was said that changes of this magnitude were deeply concerning, would you agree with that?---I don't agree with that statement, no.

Mr Urquhart.

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MR URQUHART: Thank you, sir.

20 And that these changes potentially demonstrate a failure of process, probity and organisational systems, you'd disagree with that?---Totally. I'm happy if you want, if it helps you, to go through each of those dot points, (a), (b) and (c) and explain why that process happened. You're not interested in that?

25 Mr Mianich, if you haven't learnt by now in all the days that you've given evidence in the witness box, Counsel Assisting or counsel here asks you questions and you answer. You don't ask the questions, do you understand that?---I do understand that.

MR BOURHILL: Commissioner, I rise. I wonder if I could address you on a point?

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COMMISSIONER: Yes. I'm just going to ask Mr Mianich to be excused while you do that. I anticipate I know what it's about. Mr Mianich, I'm going to have you excused from the hearing room while I hear from your counsel.

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WITNESS WITHDREW.

COMMISSIONER: I will just wait for Mr Mianich to exit the room. Yes, Mr Bourhill.

40 MR BOURHILL: Commissioner, the specific issue I wanted to alert you to and my learned friend, because I fear the way in which this is going might create an issue.

COMMISSIONER: Yes.

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MR BOURHILL: Mr Mianich advised my instructing solicitor this morning that unlike yesterday, this morning he is concerned about his blood pressure.

COMMISSIONER: Yes.

5 MR BOURHILL: He had an elevated pulse and whilst he was prepared and able to continue, he did have some concern that may become an issue. I fully appreciate the job that my learned friend has to do and I fully appreciate the manner in which it's done, but I would ask if he could, if he can take account of that fact in the manner in which he asks his questions.

10 COMMISSIONER: Thank you very much, Mr Bourhill, that's helpful.

MR URQUHART: And it would have been helpful, sir, if I was advised of that before examination continued this morning.

15 MR BOURHILL: I was dealing with another issue when you came in, so - - -

MR URQUHART: It would have taken all of 5 seconds, sir, with the deepest respect.

20 COMMISSIONER: Mr Urquhart, I'm sure it would have been helpful if we had all known that this morning but sometimes there are reasons why that doesn't happen and I'm not being critical.

25 MR BOURHILL: No. I only raised it now because he used the words, "I'm fuzzy". I didn't think it was going to be an issue.

COMMISSIONER: No, and I'm very conscious of that. Mr Bourhill, may just indicate to you that I am very conscious of what you say and of course, it has a bearing on how the proceedings should be conducted. There's no question of that in my mind.

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MR BOURHILL: Thank you, sir.

35 COMMISSIONER: To finish what I was saying, I certainly imply no criticism of you or anyone else for that matter, in your legal team for me not knowing sooner. I appreciate that the life of counsel is not an easy one sometimes and there are many challenges facing one on the morning of a hearing.

40 MR BOURHILL: Thank you, sir.

COMMISSIONER: Mr Urquhart, if it is possible to take that consideration into account in the further questioning of Mr Mianich, that would be helpful.

45 MR URQUHART: Absolutely, sir, that's a given.

COMMISSIONER: May I just address you on one thing though, Mr Bourhill. You will recall that yesterday I did give your client some advice on how he should

be responding to questions and when I indicated a moment ago that I am concerned that he has not taken some of that advice on board, I did mean that.

5 MR BOURHILL: I understand that, sir. Obviously I haven't had an opportunity to speak to him in the intervening period.

COMMISSIONER: No.

10 MR BOURHILL: I can't - unfortunately, without permission to speak to him, I can't deal with that but I fully understand the point.

15 COMMISSIONER: What I'm going to do is, I'm going to shortly adjourn for a very short time and in that time, what I would like you to do, if you are so minded, is to perhaps give some advice to your client on how he should be conducting himself as a witness. That's entirely up to you, of course.

MR BOURHILL: I will take that opportunity, sir.

20 COMMISSIONER: But it seems to me that it might be a worthwhile thing to do for this reason: if he acts on the advice that I gave him yesterday and that you may give him during the break, then it may be that there are less reasons for his condition to be affected by the questioning.

25 MR BOURHILL: I fully understand, sir.

30 COMMISSIONER: What I will do now is, while Mr Mianich is out of the room, I will adjourn for just a short time, as long as you need, and when you've given that advice, if that's what you wish to do, then if you let my Associate know, and we will resume.

MR BOURHILL: Thank you, sir.

COMMISSIONER: Thank you.

35 (Short adjournment).

MR Robert David MIANICH, recalled on former oath:

40 COMMISSIONER: Mr Mianich, you are now back in the hearing room. In your absence, your counsel raised a matter of some concern and the Inquiry is pleased he did. I want to make it clear to you that your absence from the hearing room is no reflection on you?---Thank you.

45 Mr Urquhart.

MR URQUHART: Thank you, Commissioner.

Mr Mianich, I want to take you to another paragraph in Mr Jorgensen's letter and that appears, sir, at 3.1273, so just a next page, thank you, Madam Associate.

COMMISSIONER: Thank you.

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MR URQUHART: And in particular, paragraph 9. Can you see that clearly enough on the screen, Mr Mianich?---I can read it, yes.

I will just read it out:

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At a recent meeting of Commissioners and in a public forum you provided monthly financial statements that contained a \$110 million error because the brackets around the entry "\$55 million" had been missed in a manual transposition error.

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We will just stay there. We will just leave that, we will get to the other sentences in a moment. We will just stay with that one there; have you got a recollection of this meeting that Mr Jorgensen refers to?---Yes, sort of. It happened, I don't know, a number of months ago. I don't remember the exact month. It was the financial activity statement for a particular month. I'm sorry, I don't remember the month.

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Do you recall this error - - -?---Yes, I do.

- - - that Mr Jorgensen referred to. Is that correct, that the brackets around the entry \$55 million had been missed?---Sort of correct. The language is a bit clumsy. What it was, was a number in a cash flow statement was put as an outflow where it should have been an inflow, something to that effect.

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Yes. He continues:

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Because the error was demonstrated in a public forum, it exposed the City to significant reputational risk.

It was in a public forum, was it not, this meeting?---Correct. That would have been tabled at a Council meeting. That's an a legislative requirement, to table that.

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Thank you. Do you accept his observation that it exposed the City to significant reputational risk?---No, I don't accept that comment at all.

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Do you accept that it embarrassed the City in some way?---No.

That it exposed it to reputational risk?---Totally no.

Are you saying it didn't reflect poorly on the City in any way?---No, it didn't reflect poorly on the City.

45

Why do you say that?---Why I say that, because the error was picked up prior to

the meeting by the officers concerned. A memo was prepared and Commissioners and the CEO were advised of the adjustment and that memo was tabled at the meeting and therefore noted at the relevant meeting.

5 However, am I right in saying that the report that became part of the public record before the meeting did not have that error corrected?---Yes, that's a correct statement.

10 So would you then at least accept that it had the potential to embarrass the City, in a way, in a small way even?---No.

No?---Because I would say not many people, if any, would be reading the cash flow statement of a Council for a month.

15 And if they did - - -?---If they did - - -

- - - would there be embarrassment for the City?---They possibly wouldn't have even noted it.

20 Would it have been an embarrassment to the City if they did note it?---No.

Were you embarrassed by this error?---I was disappointed and angry.

25 Because you had not picked it up?---For a number of reasons: one, firstly the error was - - -

Is it because you had not picked it up?---Well, no.

30 Okay?---That was part of it, yes.

And should you have picked it up?---We have got controls in place whereby financials are checked by probably, I would say, two officers before they get to me.

35 Mr Mianich, I will ask you again: should you have picked it up?---I probably should have, yes. I probably should have picked it up but no, it got missed.

Because Mr Jorgensen continues:

40 *It is difficult to understand how you can have oversight of a basic unreliable manual financial system and have not established an adequate computerised financial system that generates accurate reports.*

45 I gather you don't accept those observations?---No.

Do you maintain that the financial system was reliable?---Yes, I maintain that. This type of error has never happened before.

Do you accept that it is a fairly basic financial system as at the time that this error was made?---No.

5 I gather then from the answer you maintain that the computerised financial system does in fact generate accurate reports save and except for the odd error like this one?---Yes, I think it has produced accurate information. As I said, as far as I'm aware, this is the first time an error of this nature had been made.

10 Do I understand what you were saying earlier, when I asked you should you have picked it up, I gather from the answer you gave is that it should have been picked up by a number of others as well, is that correct?---Yes. It would have been reviewed by the Senior Management Accountant and then the Manager, Finance and then possibly even the Chief Accountant and then me, so you've had sort of
15 three or four sets of eyes look at the numbers.

And it seems no-one picked it up before the report was placed on the City of Perth website?---That's correct. I think it was picked up on the Friday and the agenda would have gone on the website on the Thursday.

20 Can you recall who picked it up?---It was brought to my attention, I think by the Senior Management Accountant, who's largely the preparer of the data.

And was he one of those people who were - - -?---It's her.

25 A her?---Yes.

Is she one of the people who was supposed to have looked at the report in its original format before it was posted on the website?---Yes.

30 So she overlooked it, it would seem, at that point in time and then picked it up after it had been posted?---Yes. I think they have got controls in place for reconciling the cash flow statement and that's when it became apparent

35 [10.30]

COMMISSIONER: Was this the person called Reshma who you spoke about yesterday?---That's correct, Commissioner, yes.

40 MR URQUHART: In fairness to you, Mr Mianich, I will just ask you about whether you agree or not to the next paragraph that appears in Mr Jorgensen's letter and I will read it out. It's a shorter one than the other one:

45 *As a result of the inadequacies of the City's accounting functions and the absence altogether of any meaningful strategic financial projections, both of which are clearly your responsibility, you have placed the City in a position of significant financial, legal and*

reputational risk.

I gather you'd disagree with the propositions posed in that sentence?---I don't agree with them at all, no.

5

Thank you. Madam Associate, that can come down now, thank you. We spoke briefly, Mr Mianich, about silos within the City, do you remember that?---I think we touched on it very briefly, yes.

10 That's right, yes. It's a word that the Inquiry has encountered on a number of occasions to describe the set-up at the City of Perth. So I just want to quote to you some more transcript from Mr Nicolaou's evidence on Monday. I think you left at the morning break, didn't you, on Monday?---Yes.

15 That's no criticism of you?---Quarter to 12, I think it was.

Yes. I don't know whether you heard this from him or not but even if you had, I will just remind you again?---Was it before the morning break?

20 Let's have a look. No, it was after?---Okay, so I probably haven't heard it.

Okay. Sir, this will be at page 29 of the transcript from 7 October.

COMMISSIONER: Thank you.

25

MR URQUHART: Commencing at line 40. He says:

30 *Look, drawing back on, I guess, on our earlier review of everything, it did seem very siloed, the organisation, and that came through particularly with the City of Perth Parking business which had its own financial model advisors that operated independent of the overarching City of Perth finance team.*

35 Is that a correct description of how the City of Perth Parking business operated?---I would generally agree with that comment. It was very autonomous and certainly they employed a highly skilled financial analyst and they had, as I think I said yesterday, probably another, possibly two, three fairly senior accountants. So I would probably generally agree with John's comment there.

40 Incidentally, you refer to him by his first name because I think you actually both knew each other at the Department of State Treasury, or knew of each other?---By way of disclosure, I was the Director and John worked for me.

45 Okay, good. He continues "which was surprising", you don't need to comment on that:

I guess the expectation would be that they are all under the same

family, this is the City of Perth and there needs to be an integrated view, a comprehensive view, a single view of the whole organisation, not disparate parts coming together and then presenting themselves.

5 Were you of the view that there was actually an integrated view of the whole
organisation?---It all came together in the City's budget, of course, which pieced
together all the parts of the City and in the Long-Term Financial Plan, but I agree
with - my view was that the Parking business, CPP, was very much hands-off from
our Finance Unit. They did not really engage well with the Finance Unit. They
10 wanted to keep, let's say, independent of the unit. So there were some sort of, I
guess, almost tensions between the Finance Unit and extracting financial data from
the Finance Team in CPP.

15 That is a problem, is it not, given the revenue that City of Perth Parking generated,
is that fair to say?---It's not a problem, but I think it's far from an ideal corporate
situation.

20 Mr Mianich, part of the Inquiry's role is to make recommendations to improve the
workings of the City of Perth and Local Governments in general. I suppose this
relates particularly to the City of Perth: what measures would you like to see
introduced with respect to that relationship the City of Perth Parking unit had with
the City of Perth Finance Department?---Yes, I've got some views on that.

25 I'd like to hear them, please?---So the Department has been looking at, for quite a
number of years now, some sort of ability for a Local Government to form sort of
corporatised entities. City of Perth Parking, in my view would be an ideal vehicle
to take out of the Council structure and to segregate it totally into some sort of
corporatised vehicle. I know I provided feedback to the Department years ago in
relation to that. I've been sort of looking at draft documents with them on that. So
30 in this situation, the Parking business, as you rightly point out, the biggest Parking
business of any Council in Australia. Its business function doesn't sit perfectly in a
Council function because a Council is there to service ratepayers and what has
happened with the CPP business, it has acted largely as a cash cow for the Council
to expend significant moneys on capital for the benefit of ratepayers that has
35 largely been funded by the surplus cash flows out of the Parking business. So that
would be my ideal solution. I'm not sure if that answers your question.

40 Was that something that you were proposing or suggesting during your time as
Director of the Corporate Services?---I had certainly discussions with Gary
Stevenson, I probably had some discussions with Martin about it. I know when
Gary was looking at the structure and we had this workshop, I think I recall that I
suggested to him, "Why don't we just have the Parking business as a completely
separate Directorate, so not have it in Community and Commercial, have it as
Parking, so it was a completely separate Directorate." That was sort of like a step
45 in the direction of making it totally separate.

And did anything come of that?---Well, we discussed various options over about a

two day period. I don't think Gary was supportive of that. He came up with the idea of combining corporate with community and you ended up with a Commercial and Community Directorate. I've got to say for the record that I wasn't in favour of that proposal.

5

So you've addressed there the City of Perth Parking matter. What were your views on the Directorate Accountant system?---Okay.

10 Do you understand what I mean by that?---Yes. So each Directorate had a Directorate Accountant, and this sort of fed out of the organisational restructure work and probably was put into place, probably around 2016. So I was supportive of the model when it was first introduced because what it was to be was a joint reporting line between the Directorate Accountant and the Manager, Finance and the Directorate Accountant and the relevant Director. That was the agreement at 15 the time to create the structure. What happened was the Position Descriptions for the Directorate Accountants were rewritten and their job responsibilities were lifted and that resulted in probably an increased classification in their title, the title of their jobs and more remuneration, but - so the model as proposed, I think, to answer your question, I was in agreement with. The problem was when it was 20 implemented the Directors usurped the function totally. So they virtually cut off the reporting arrangement that was agreed with the Manager, Finance. So it proved very difficult for the Finance Unit to extract data and to get information from the Directorate Accountants. They seemed to be extremely, dare I say it, 25 siloed in their view as to just presenting the Directorate view and really taking a very defensive view of the Directorate, rather than looking at a whole of organisational view.

30 So was that a flaw in the system?---I don't know whether it was a system flaw. It was, I think - the structure didn't work.

30

A flaw in the way it operated?---Yes, I'd agree with that.

35 How would you class that flaw, a minor one, a big one. In the grand scheme of things that was going on at the City at the time, it wasn't major.

35

But with respect to - leaving aside the other issues, just looking at it in isolation, there was clearly, as I understand your evidence, room for improvement?---Yes.

40 Or indeed changes to be made?---If I had my way now, I would stop the model and I would actually centralise that resource into Finance.

Just returning to Mr Nicolaou's evidence that I just quoted from, it continues, sir, at page 30. In fact, the Commissioner himself asked Mr Nicolaou this question:

45

You spoke about the whole of family approach, you've spoken about it in the context of one Directorate getting its own financial advice; did you, in your examination, also come across disparate management in

terms of human resources? Was that also something that you encountered?

5 That was the Commissioner's question. I'm going to read out Mr Nicolaou's answer and give you an opportunity of responding?---Okay.

He states:

10 *The struggle that we had was there was no single view from a human resource management perspective which should come through in the finances, because it is the largest cost base of the City. So without that single view of the cost of people and people management, then there are issues that can emerge over time and costs can start to escalate beyond what's comfortable from a broader point of view. So from our*
15 *initial examination and I always have to qualify, we weren't able to test a lot of these things through, I guess, a deeper round of stakeholder consultation internally, but our assessment was that they all operated very independently of each other and there wasn't that - they didn't come together as a single view and from a human resources*
20 *management point of view, that was a surprise as well.*

I know that's a long answer to a relatively short question. Would you like to make any observations about those matters?---Okay

25 [10.45 am]

If you want me to repeat any of it again, I can?---I think I got the gist of it. Look, I think I touched on this yesterday. I think my observation was that the Manager, Finance and the Manager, HR worked very well together. You had two disparate
30 systems, so HR and payroll was produced in the Empower system and you had your financial information produced in Finance One. So I think what John is alluding to there is, you had systems issues and touched on the issue that I mentioned yesterday about getting an accurate assessment of head count because numbers coming out of the payroll system would be accurate but it was very
35 difficult to get an instantaneous set of data with regard to the number of contractors that were filling in for substantive positions at any one instant in time because of the devolved nature of the structure and partly was the previous question, the nature of the Directorate Accountant role as well. So overall, I would say there would be room for improvement and part of the City's intent was to have
40 a new HRIS system, that was in the throes of being introduced, which would have integrated much more seamlessly with the finance system and in fact, would have produced the data that we spoke about.

45 Mr Mianich, I just want to move on to another area, just briefly, and that is contracting and procurement, okay? I understand or is it the case that you or your division at least had a role in contracting and procurement management?---It was part of the Finance Unit function, yes.

So what role was that, essentially?---So - well, I will need to split the answer in two. So you've got a procurement function and a contract function. So the contract function was a little devolved because, and probably we were trying to
5 introduce a centralised procurement model. So a lot of the contract work in terms of working up specifications for tenders, et cetera, were developed within the Directorates. The role of Finance was to oversee the final tender process and to assist maybe the officers in preparing reports for Council and Commission on tender reports, but their involvement in terms of the nitty-gritty of tenders was a
10 little removed because you had, probably a handful of officers who were doing the detailed work within Directorates, particularly the Community and Commercial Directorate and particularly Parking, for example, and certainly the Construction and Maintenance Directorate.

15 Could I just stop you there for a moment. You said you were trying to introduce a centralised procurement model, did I get that right?---That's correct, yes.

So you were trying to introduce, so was it introduced?---Yes. It was quite a large gestation period. We developed - the City developed a policy document for
20 centralised procurement that was endorsed. I've got to say, during that period there was quite a bit of resistance as to the initial centralisation of procurement.

From where?---From the Construction and Maintenance Directorate in particular and the Parking Unit.

25 They would be two major Directorates at the City?---They were.

Yes?---So we employed a qualified individual in relation to procurement. His clear view was that if you're going to introduce the centralised procurement model,
30 it needs to almost be all or nothing. It would be fundamentally flawed to introduce the model and then have a large part of your procurement function sitting out like it was at present. So I've got to say he became a bit frustrated with that process, trying to get all the officers convinced that that was the right pathway to go down. In fact, he resigned and when I spoke to him about resigning, that was the reason
35 he left, he became just frustrated with the process.

So the centralised procurement model, to use your words, is that still a work in progress, at the time you left?---At the time I left, the City had just employed a replacement officer, I believe and I'm not sure what's happened there, but I believe
40 the officer that left previously has now come back into the role, but you would need to check with the City because I'm not there now, obviously.

When you were there, was there any attempt to centralise a model for contracting - you'd made the distinction between the two?---The contracting, the discussion was
45 to move the officers I spoke about that worked on the tenders, there was some view to sort of have them work a lot closer with the contract people in Finance but there was a reasonable argument put up that it also made some sense to have those

officers sit back in the Directorates because they could speak to the relevant officers and managers regarding irrigation tenders and the like. So there was some talk of it, yes.

5 So another work in progress as at the time you left?---At the time I left, my understanding was that those officers I spoke about were all still in the Directorates that I spoke about. There was no suggestion at that time of moving them into, say, a finance role.

10 So bearing in mind there isn't as yet a centralised contracting and procurement arrangement or plan, might that lead to a lack of adequate oversight?---Well, I think there is a policy document that's been endorsed. I think a Procurement Officer has been employed, so I can't talk right at the moment what it is but I believe it's been actioned.

15 So if there was any lack of oversight in the previous system, you believe it's now been addressed?---It's been worked on and should be addressed.

20 Because of course, these areas, particularly procurement, can be subject to fraudulent and corruption risks, do you agree with that?---It's a high level of risk, yes.

25 Indeed, from what the Inquiry has been able to calculate, there's a range of procurement activities undertaken by the City, it comes to around \$50 million per annum. Does that sound about right? I'm not being exact here?---It's of that order, it would probably be higher, actually, because materials cost alone is \$50 million so you've got other costs on top of that.

30 There are a number of matters that have been investigated by the City regarding contracting and procurement where there may have been - I say may - some misconduct by officers?---I believe there were. I wasn't involved in the investigation of a lot of those. There may have been matters brought to the attention of the CCC.

35 Yes?---I think the CEO would have kept that confidential, I wouldn't have known about those.

40 Might this suggest that lack of oversight that I referred to a moment ago?---As I said previously, I agree it's a risk area. I'm not sure I agree with lack of oversight.

Right. There could be better oversight?---I think I was strongly of the view that the model should be centralised. I think if you centralised the model, in my view, from a risk mitigation point of view, I think the risks are helped to be mitigated, not totally but - - -

45 No, I understand that. Mr Mianich, I just want to go now to - I've nearly finished - an area of governance and I would just like to refer to a section in Mr Nicolaou's

condensed report. Madam Associate, if we can have 3.1494, please. In particular, Mr Mianich, it's the first two dot points on the left-hand side:

5 *The trends in the City's financial performance can be traced to issues in relation to its governance. A review of the City's strategic planning documents found that while they fulfilled its statutory requirements under the Act, there is limited integration of these planning documents.*

10 That's just a summary, so I actually asked Mr Nicolaou if he could expand on that second dot point. So I'm just going to read to you the response that he gave in answer to that question by me of him. Sir, this now appears at page 25 of the transcript from 7 October.

15 COMMISSIONER: Thank you.

MR URQUHART: And at line 35 it starts. Mr Mianich, I asked Mr Nicolaou:

20 *Your second dot point there refers to, "Limited integration of strategic planning documents"?---Yes.*

20 *What do you mean by that?*

25 My apologies, I wasn't following the order of my notes correctly yesterday. I think I've already addressed you on this, so I won't bore you again with those questions.

COMMISSIONER: Do you need a short adjournment to reposition yourself?

30 MR URQUHART: I'm hoping not, sir. We can clarify this quite quickly. No, I'm helped now. Sir, it's actually the first dot point on page 1494. It's referring to the KPIs.

Sorry, Mr Mianich. So just have a look at the document again now?---Sorry, this one here?

35 Yes, that same document. It's the first dot point on the right-hand column?---Okay.

It reads:

40 *The City's KPIs are intended to provide a broad assessment of its performance against the Strategic Community Plan. However, there are a number of limitations with the suite of KPIs which limit their effectiveness as a performance monitoring tool. The key performance indicators that the City currently has in place relating to financial*
45 *performance are a subset of the financial indicators that Local Governments are required to report. In the context of this review of the City's finances, these KPIs have limited application as they do not*

adequately assess the efficiency of the City in the delivery of services to the community.

I will just give you a moment to absorb those observations by Mr Nicolaou.

5 COMMISSIONER: In fairness to Mr Mianich, he might also be given an opportunity to look at the next dot point.

MR URQUHART: Yes, certainly. Thank you, sir.

10 COMMISSIONER: As one relates to the other.

[11.00 am]

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WITNESS: Okay, I've read those.

MR URQUHART: Thank you. Do you want to make any observations about the accuracy or otherwise of what Mr Nicolaou has said regarding the KPIs in the first dot point?---I agree with parts of that dot point. I think the City's KPIs were limited in their effectiveness because, not uncommon to local or State Government entities, the KPIs tended to be set at a very high level because the only benefit of a KPI you can get is if you can measure results and for government, it produces a lot of outputs that are very, very difficult to measure. So you end up with - as a result of that you end up with very highly set KPIs. So I would agree with the comment there made about the limitations of effectiveness. In relation to the financial KPIs, the City, from what I recall, only used, as John points out, virtually the legislative KPIs. I agree that we could have possibly explored additional KPIs in relation to expenditure, expenditure level and growth as he's noted there. I haven't seen the Sydney and Melbourne ones recently.

That was going to be my next question?---Yes.

So you haven't had an opportunity to compare?---No, but look, I think that's a good suggestion.

What is, which suggestion?---The one about expanding out the KPIs in relation to expenditure levels and growth.

Thank you for that. These are just a number of separate matters that hopefully won't take much longer. You're looking at your watch, do you have to be somewhere?---I don't have to be somewhere but I am - would appreciate a break at some stage.

I see.

COMMISSIONER: How much longer do you think you will be?

MR URQUHART: I would have, sir, maybe 10 minutes?---10 minutes is okay.

COMMISSIONER: Can you deal with that?---Is that the end of it, 10 minutes?

MR URQUHART: That's the end of my questioning of you, Mr Mianich, yes?---Okay, let's push on.

COMMISSIONER: Are you up to it?---I think so, Commissioner, yes.

MR URQUHART: Any time during the next 10 or 15 minutes, if you feel you're not up to it, please let us know and we will have a break?---Okay, yes.

When you were at the City, did you believe it had an adequate framework for the management of conflicts of interest?---A framework? Are you able to expand a

little bit on what you mean by a framework?

Did it have appropriate policies or plans in place to manage conflicts of interest?---Are you talking staff or Councillors?

5

Both, but mainly staff. Let's stay with staff?---The Governance Unit would have overseen that process.

10 And in particular, with respect to procurement and contracting, if that helps?---Okay, in procurement and contracting, so conflicts of interest, okay. I think I know where you're going. So largely the requirements on staff in that area, we have got guidelines in there that talk about what the onus is on a staff member. So for example, if I'm procuring something and one of the tenderers is my brother's company, you would obviously need to disclose interest. I think that was, I believe, fairly well understood by officers that were involved with tenders and procurement. However, I think its possible weakness was, it was largely a self-reporting regime, so - - -

20 That was exactly what I was going to ask you, yes, it is self-reporting?---Yes, so what would happen is the officer would get the list of tenderers, let's say there's five tenderers and then look, "Oh, actually I know someone who works at that company", so what would happen then in accordance with our guidelines would be that the officer would say, "Sorry, I've got a conflict of interest, I need to step out of this process and you need to find someone else to replace me on the panel" or whatever, but in terms of being able to monitor it or keep control over it, it was largely reliant on the officer to disclose.

30 I was also going to ask you about the - there was a plan in place for the management of fraud and corruption in that same area of procurement and contracting but I think we have already addressed that. You've already outlined the improvements that could be made in that area?---Yes. I think in the purchasing - I can't remember which document it is but there's a document that does touch on fraud and corruption with regard to procurement practice. I just don't recall what particular document, but it's a difficult area to control because, in any entity you're going to have some risk of that.

40 I just want to ask you something about this now, another separate area and this is an observation that was made by a report prepared by Crowe Horwath, do you recall that one - no, you wouldn't necessarily. They prepared a review of governance and financial matters for the Department of Local Government. This was on behalf of the Inquiry?---I met with officers from Crowe Horwath once but I think that would have been like February, before I sort of wasn't there any more.

45 I just want to draw to your attention a portion of their report and just ask for you to comment on it, please. Sir, this is at 2.0111, so a different file.

COMMISSIONER: Thank you.

MR URQUHART: TRIM number 23805.

COMMISSIONER: Thank you.

5

MR URQUHART: I remind you, Mr Mianich, this was a review of governance and financial matters?---Yes.

So financial matters were a part - - -?---Yes. I haven't seen this report before.

10

Okay, but all I wanted to draw your attention to was what appears under 8.7 there, "Response to Inquiry".

COMMISSIONER: Madam Associate, can we have that enlarged, please. Thank you.

15

MR URQUHART: :

20

We were disappointed with the quality and timeliness of information provided by the City to our enquiries which reinforced the view of the level of dysfunction that exists. There have been occasions where - and then there's four dot points - irrelevant information of substantial quantity was provided to us, causing unnecessary commitment of analysis time.

25

The next dot point:

Extended delays to supply FBT information that should be readily available in the City's official record keeping system.

30

The next dot point:

Failure to address questions directly and succinctly or ambiguous responses given.

35

And the last dot point:

At times inadequate collaboration to provide general contextual or framework type of information by the imposition of unnecessary protocols, such as not allowing handwritten notes to be taken during meetings.

40

I know you haven't seen the report before but they were four matters that the compilers of this report stated. Have you had a chance of looking at that?---Yes.

45

Can I ask you, is any of that of concern to you?---Concern, yes. It's difficult for me to comment because presumably this work was done in, I guess, March, April,

May.

Are you able to provide an explanation as to why those matters have arisen?---Some of the comments here are quite general "irrelevant information".

5 In relation to FBT I'm a little surprised because there's one officer that's been doing that function for a long period of time and my understanding is that our records in that area were reasonably detailed. So I'm surprised that it says, "Extended delays in supplying information."

10 Because you're saying it should be readily available in the official records system?---Yes, there's a designated officer to do that, so that's a surprise to me. "Failure to address questions directly", I'm not sure I can pass comment on that. When I met with them, I answered the questions that they asked me and the last one, I don't quite follow this about not allowing handwritten notes to be taken
15 during meetings.

So you're not aware of that?---I used to take extensive handwritten notes during meetings, so obviously that protocol didn't apply to me.

20 Thank you. That can come down now, Madam Associate. Again, just a few - - -

COMMISSIONER: Just on that last point, Mr Urquhart, I wonder if there's some ambiguity there. Is the prevention of handwritten notes something which the Crowe Horwath officers are saying they were prevented from doing or are they
25 saying it more broadly, that there was a protocol against taking handwritten notes within the unit?

MR URQUHART: You're right, sir, it's the first one, that Crowe Horwath were prevented from taking notes during meetings.

30

COMMISSIONER: Did you understand it - - -?---I misread that.

I thought you did. So it might be fair to give Mr Mianich an opportunity to comment on that.

35

MR URQUHART: So was that your understanding, in meetings that - - -?---I can't really comment. As I said, I had one of the initial meetings with them in February and I certainly wouldn't have any problems with officers taking notes or Crowe Horwath taking notes.

40

Can you recall whether they were taking notes?---They were at the meeting I was at, I think, I seem to recall. So I don't know where that's come from. Surely, if they had an issue with that, they should have raised it with the CEO.

45 In conclusion, just some general questions for you?---I thought we were concluding, but no, you've got no more.

No, these are - - -?---It seems to be more than 10 minutes.

5 COMMISSIONER: Well, Mr Mianich, let me tell you one thing, that when lawyers give you an estimate of time, it isn't always reliable and I don't just make that comment in relation to Mr Urquhart. You may well find that if anyone else has questions for you following Mr Urquhart, they will be equally unreliable as to their estimates of time. It's a fact of working with the legal profession?---I have noted that, Commissioner.

10 So, Mr Urquhart.

MR URQUHART: Would you say the City was running efficiently from a financial perspective in the last several years that you were Director of Corporate Services?---Running efficiently? It could be improved.

15 Right. You've mentioned a briefing session which you said took place in about 2016 in which you raised the City's financial affairs. Do you remember that?---Yes.

20 Your evidence? It seems from enquiries that have been made, that briefing session was in 2014, could that be right? If you don't know, you don't know?---Look, sorry, I would have thought it would have been later than that but the records can be checked in Governance because a PowerPoint presentation was made and that will be part of the corporate records of the City.

25 Would there be any other written record of any other times that you raised any concerns you had about the City's financial affairs?---I would have made budget briefings to Council on at least an annual basis and of course, back then the Council had the Finance and Admin Committee, so a standing item virtually on the agenda of that committee was a constant update of committee members on budget. We would take draft copies of budgets to them. So in the committee structure, the three members of that committee were delegated the task to look at finances.

30 Very lastly, we spoke briefly about the 360 degree feedback analysis that was done in the final months that you were at the City of Perth, remember we just did that very briefly?---Yes, probably about January, was it?

[11.15 am]

40 Yes, and you mentioned that one of the matters that was raised by staff that were interviewed for that was your innovation was questioned, do you remember you actually offered that information to me?---Yes, that was the information Mr Malloch gave me.

45 Yes. Was it the case that your drive for improvement and innovation might have diminished somewhat in your final years as Director of Corporate Services?---No.

You don't think you just became a little complacent?---No.

Thank you, Mr Mianich, that's all the questions I have for you?---Thank you.

5 COMMISSIONER: I will hear if there are any applications. Mr Tuohy?

MR TUOHY: Thank you, Commissioner. No, we have no application to make.

COMMISSIONER: Thank you. Mr Bourhill?

10

MR BOURHILL: I do have an application.

COMMISSIONER: Very well. Mr Mianich, I'm going to have you excused from the hearing room while I hear this application?---Okay.

15

WITNESS WITHDREW.

COMMISSIONER: Yes, Mr Bourhill.

20 MR BOURHILL: Commissioner, there are three areas that I wish to examine Mr Mianich in relation to.

COMMISSIONER: Yes.

25 MR BOURHILL: The first is his response to the letter from Murray Jorgensen that's been the subject of considerable cross-examination.

COMMISSIONER: Examination.

30 MR BOURHILL: Examination, my apology. I have provided to the Commission's solicitors and I think my learned friend Counsel Assisting has seen a draft letter that Mr Mianich prepared and I'm advised that they have no objection to that draft letter being tendered, obviously through Mr Mianich, if you take the view that it's of relevance. It's not my intention to take him through that letter at
35 all, but I would like it tendered because it simply shows that he did, in March 2019, prepare a detailed response to the issues raised in Mr Jorgensen's letter and I think that is relevant.

40 The second point related to that is I want to ask him what happened immediately after him preparing the letter and why the letter wasn't sent, which feeds into the follow-on agreement for him to cease his employment with the Council. I don't want to go into the detail of that because I appreciate that's not an issue you're concerned with, but it does explain why the letter wasn't sent. That part of it I consider - - -

45

COMMISSIONER: Thank you. In relation to the letter, do you know when the draft was created?

MR BOURHILL: I do, on 18 March 2019.

COMMISSIONER: Thank you. How many iterations of the draft were prepared?

5

MR BOURHILL: I don't know the answer to that, sir. I only have the one copy that's been provided by Mr Mianich whose instructions to me are, he prepared it himself at home. There was no input from anybody else.

10 COMMISSIONER: And if there were several iterations of this, would there be any reason why the Inquiry could not see them?

MR BOURHILL: Not that I'm aware of, presuming that Mr Mianich can still access - I mean, he was able to access this on Sunday, so I presume if there's
15 further versions of it, that could be - - -

COMMISSIONER: Yes. So, for example, if it were thought that it might be helpful to look at the macro data to see what changes, if any, were made to the draft - I'm not saying there were but if there were, that might be useful.

20

MR BOURHILL: I can take instructions on that, if permitted.

COMMISSIONER: Yes.

25 MR BOURHILL: The second area which Mr Mianich has given some evidence very recently, which goes to the relationship between the Directors and the Directorates, I merely want to ask him two questions. One is, was there any hierarchy within the Directorates or as to the Directors because my learned friend correctly has asked him a number of questions about what he did in relation to
30 things that were being done in other Directorates. I would just like him to comment on those two things, on the hierarchy and what response he received to any advice that he provided to Directors and other areas, not in detail but just - - -

COMMISSIONER: I understand, related to the hierarchy and how it worked.

35

MR BOURHILL: Yes.

COMMISSIONER: I understand.

40 MR BOURHILL: The third issue is to give him the opportunity to explain the issues that he was examined about from paragraph 8 of Mr Jorgensen's letter at page 4 and they are the three items of expense that he didn't agree were mistakes, and I just want him to have the opportunity of explaining why he didn't think they were mistakes and how they came about.

45

COMMISSIONER: We might just get that page brought up.

MR URQUHART: It's 3.1272.

MR BOURHILL: 1272.

5 COMMISSIONER: Thank you. Madam Associate. You mean (a), (b) and (c)?

MR BOURHILL: Yes, and what goes with that which I would also take him to, is the document at 1298 which is the email from Dan Richards to him dated 7 September 2018, and that's simply so that he can explain - - -

10

COMMISSIONER: I can understand why that might be pertinent.

MR BOURHILL: Thank you. They are the three.

15 COMMISSIONER: Mr Urquhart.

MR BOURHILL: No issue, sir, with any of those aspects.

20 COMMISSIONER: Very well. In that case, I will have Mr Mianich brought back in.

MR BOURHILL: Sir, I'm more than happy for him to come back now but I wonder if we could have a break - if you were going to have a break?

25 COMMISSIONER: I took the view that he was probably having that break while I was hearing that application.

MR BOURHILL: Very well. Maybe we can check that, because I don't think he did last time. That's why I think he was - I'm in your hands.

30

COMMISSIONER: Thank you. Madam Associate, would you please bring Mr Mianich back into the hearing room.

For the record, Mr Bourhill, I give you leave to examine on all three matters.

35

MR BOURHILL: Thank you.

COMMISSIONER: Mr Mianich, please resume your seat in the witness box

40 **MR Robert David MIANICH, recalled on former oath:**

COMMISSIONER: Mr Mianich, in your absence I heard an application from your counsel to examine you on three discrete topics and I have given him leave to do that on all three topics. While I heard his application, you were out of the hearing room and I hope that was a sufficient break for you in the proceedings. Do you need any more time?---I think we should push on.

45

Very well.

MR BOURHILL: Thank you.

5 EXAMINATION BY MR BOURHILL

Mr Mianich, you were asked many questions about the letter that you were provided from Mr Jorgensen dated 12 March 2019. You remember that letter, obviously?---Yes.

10

Can I ask you, and I think your evidence was that you took the package home and didn't open it immediately. Can you tell us what you did when you did open the package?---Okay. So 12 March, 4 pm meeting, I was given the package. I've got to say, I was probably in a bit of a state of shock when I left the office. I went home, I had the sealed envelope. I didn't actually open it for a number of days. I think I went to a medical appointment the next morning. I had extremely elevated blood pressure and heart rate and I had some cardiac issues. So I literally did nothing for about, probably three, four days - when I say did nothing, I was probably ill - I was ill. Then towards the end of that week, I started to turn my mind - I opened the envelope and I put together my initial draft response to the 12 March letter.

15

20

Could you have a look at this document, please. Could you just have a look at that and take your time to familiarise yourself with it?---Okay, so that's dated 18 March. So that document was my first draft, if you like, of my response to the issues Murray raised in his letter dated 12 March. So I seem to recall I worked on that for probably a day and a half, something like that. So initially I did nothing and then whatever that day is, 18 March, that's when I finalised - I hasten to say, I didn't do anything with it at the time.

25

30

The version you have there, is that the only version of the document that you created as far as you can remember?---Yes.

There wouldn't be earlier versions on your computer?---It wasn't on my computer, it was actually on my daughter's computer but no, I think that is the version, the only version.

35

COMMISSIONER: So 13 March was a Wednesday and 18 March, for your assistance, Mr Mianich, was a Monday?---Monday, okay, so a week later - virtually a week later. So I would have worked on that on the Sunday.

40

Thank you.

MR BOURHILL: You've said you didn't do anything with it. Can you explain why you didn't do anything with it - sorry, can I take you back a step, and I don't think there's any contention about this. The letter that you received from Mr Jorgensen required your explanation on a whole range of issues but then at the

45

end made it fairly clear that in the absence of adequate explanation, your employment was at risk; is that how you understood the position?---I think that was the conclusion in the 12 March letter. It said words to that effect, yes

5 [11.30 am]

So why didn't you then send the letter that you had prepared on the 18th, sorry, or 19th - - -

10 COMMISSIONER: It's dated 18 March, Mr Bourhill.

MR BOURHILL: 18 March, why didn't you send that letter to Mr Jorgensen?---Okay. The reasons why I didn't send the letter at that time, the first reason was, I was on medical leave so my doctor was quite concerned with my
15 health and secondly, I engaged solicitors to act on my behalf to provide advice in relation to Murray's letter dated 12 March.

Did you ever provide a copy of that letter to your solicitors?---I think I probably would have, yes.

20

Did they do anything about that letter, to your knowledge?---Well - - -

If you don't know, just say you don't know?---We discussed it but I don't recall what specific action they did on it, no.

25

Go back then to the question, is there a reason why the letter wasn't sent?---Okay. So this was dated, what, 18 March. So what happened was, obviously I was on sick leave for weeks and weeks and weeks, so about five weeks after 12 March, in sort of mid, late April I received an email from solicitors acting on behalf of the
30 City who made a without prejudice offer to me to, in effect, resign from the City.

The without prejudice offer that was made to you in that email, how did that, to your understanding, correlate with your contractual entitlements?---The offer was consistent with my employment contract.

35

MR URQUHART: Sir, maybe we can just short-cut this, if my learned friend can ask a leading question if need be as to why this letter was not sent to Mr Jorgensen. It might save some time.

40 MR BOURHILL: Thank you.

MR URQUHART: The amount of detail we are going into, sir, with all due respect, is not of any great assistance to the Inquiry.

45 COMMISSIONER: I will leave it to Mr Bourhill, he's a very experienced and competent counsel.

MR BOURHILL: I'm not asking questions.

COMMISSIONER: The only thing I'm concerned about, Mr Bourhill, is that matters not fall out in the course of the evidence which might be best kept private.

5

MR BOURHILL: No, I'm fully aware of that.

COMMISSIONER: I thought you would be.

10 MR BOURHILL: You were made the offer in the letter and you accepted that offer?---I'm just trying to recall because there it was around the public holiday period, around the Easter period and I think I was, like, given a few days, it might have been three days or four days to either accept it or the offer expired, was the narration on the letter. Out of the blue I received a phone call from the solicitors
15 Acting for the City at my home. I explained to the solicitor that I had actually engaged lawyers and he was very apologetic for ringing me and, I'm just trying to recall, I think I accepted the offer, possibly not long after the expiry date, on their original offer and a Deed of Settlement was negotiated.

20 Did that deed contain confidentiality provisions and non-disparagement provisions?---Yes.

Reciprocal?---Yes. So it contained the normal confidentiality provisions, so yes, and I signed that.

25

In that whole process, did you receive any further, or did you receive any comment or observation that you can recall, other than the letter from Mr Jorgensen, in relation to your performance?---Yes, there was one comment and I think it might have been in the email I got making the without prejudice offer. There was a
30 paragraph in there that said words to the effect that further additional information had come to the attention of the City that related to my performance, but they could not disclose anything to me.

Have you ever heard anything more about that?---No.

35

Thank you. Can I just ask you, on a different topic now, you've given evidence about the Directorates within the Council and the roles of the Directors. May I ask you, was there any hierarchy within either the Directorates or the Directors in the sense of one having more power or control over decision-making than
40 another?---In theory, no. In theory, the five Directors were part of the Executive with the CEO. So there was no sort of, like, one Director had more power than another although, having said that, obviously two of the Directorates were much larger in size, in terms of dollars and staff, than the Economic Development and Activation Directorate, the Corporate Directorate and the Planning Directorate.

45

The two you are referring to, could you just explain which two?---That's the Community and Commercial Directorate, with Director Moore and the

Construction and Maintenance Directorate with Director Crosetta. They were certainly much larger in size.

5 In the context of you, as a member of the Executive group, if you made suggestions of things that you thought should be done, either within the Council generally or in specific Directorates, in general terms, how was that dealt with? Did your view on those things hold sway?---It largely depended on the issue but generally the process would be, they would either get raised at the Executive meetings. So I was noted probably as the one Executive that would probably
10 comment on virtually every agenda item at the Executive. If I had a particular issue with a Directorate or a unit outside my own, I would normally just make contact with the relevant manager or Director and try and discuss it with them. So that would generally be the process, but I think it's important to note that, given the structure, the Director of the relevant Directorate had the final call, I guess, on
15 what went ahead.

But you couldn't override anyone else?---I had no particular overriding power.

20 Thank you. The third issue I want to ask you about is the item 8 in Mr Jorgensen's letter, Madam Associate, if you could bring up page 1272. You will recall that you were asked a series of questions about these specific expense items and that paragraph generally. Can you just explain, firstly, and you might need to go to - sorry, Madam Associate, possibly if we could bring up - I think it's 1298 which is the email that was the source of that information. You recall Counsel Assisting
25 asked you some questions about this email?---Yes.

I don't want you to go back into the explanation of the Long-Term Finance Plan necessarily but can you firstly explain, to the best of your knowledge, what each of those items related to?---Yes. So the dot points. So the core systems cost of \$13.5
30 million, that was the integrated ERP solution that I'd spoken about. The City was looking at introducing a system that could remove some of the siloed nature of its computer systems and that was the sort of firmed up cost over a period of time. The car park subsidence work, an initial number was flagged as just really to note the work, but I think Director Crosetta worked up and got assistance in working up
35 a much larger project to works and as you can see, the cost increased quite significantly.

40 Sorry to interrupt you, but do you understand by the words "subsidence works" that there was a problem with the car park that had developed after it had been built?---Most definitely, yes.

And it was sinking?---Yes.

45 Thank you?---The next one was - we have discussed this before, the IPMS, so the cost there increased and as I said, that was largely a pushing out of cash flows, because as Mr Urquhart pointed out, it was included in the budget but I think very little money was spent in the 17/18 year. The total capital increase is just a

number, a summation of the totals. The deleted loan, I had a meeting with Director Crosetta regarding looking at maybe the possibility of seeking loan funding to fund the PCEC works.

5 That is the works referred to in the second dot point?---Yes. So it was just an initial meeting. I may have had some preliminary phone calls with bankers and my initial advice back to Paul was, given the current very, very low interest rate environment, I didn't think it was worthwhile looking at borrowings for the Council to undertake such works and in fact, I probably recommended that we use
10 the parking reserve fund on the City's accounts to actually fund those works. The \$5 million in savings was a direct impact of the removal of the loan from the projections. Reduced CPP revenue, that would have come from discussions we had with the senior Finance staff in CPP and there was a reduction. So it continued the trend that we have discussed here about the flatlining in CPP
15 revenue, and operating costs remained pretty much unchanged.

As I understand it, Mr Richards is providing you with this information on the basis that these are all things that need to be changed in the long-term Business Plan?---It was a regular occurrence to update info and would be part of the process
20 that we went through on a yearly basis.

MR URQUHART: So I think the answer is yes.

WITNESS: Yes.

25 MR BOURHILL: If we just go back to - I don't need to ask you that because you've answered that already in examination. They are the only questions I needed.

30 COMMISSIONER: Thank you, Mr Bourhill. Mr Urquhart, is there anything arising?

MR URQUHART: Yes, just briefly, sir, and I gather my learned friend will wish to tender that letter dated 18 March.

35 MR BOURHILL: Thank you, if I could.

COMMISSIONER: Yes. I will deal with that now

40 #EXHIBIT RM1 - Draft letter from Mr Robert Mianich, created on 17/3/2019 and dated 18/3/2019 to Mr Murray Jorgensen with the head, "Suspension of employment and request for explanations and responses."
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45 COMMISSIONER: Mr Urquhart.

MR URQUHART: Thank you, Commissioner.

Just that document there that's been now tendered as an exhibit, Mr Mianich, I see there's still a copy there in front of you. Could you just go to page 3, please?---Yes.

5

And the second paragraph from number 6?---Yes.

You see that?---Yes.

10 [11.45 am]

:

15 *The current Directorate Accountant model is fundamentally flawed and leads to a repetition of financial data and this risk was advised to the current CEO by the DCS early in the commencement of his role.*

Is that sentence accurate?---I believe so.

20 You wrote it, so is it correct?---Yes.

So your description of the Directorate Accountant Model, the current one, is that it was fundamentally flawed?---Yes. I proposed, as we discussed earlier, a change in reporting arrangements.

25

Thank you. If we could go now to the first page, the first sentence reads:

30 *In response to your request dated 12 March 2019 I advise as follows: I have been employed at the City since November 2005 and note you have been at the City for about four months.*

Then you go on as to the views that he has reached. Could I just ask what was your point there, stating that you'd been at the City since November 2005 and Mr Jorgensen had only been there four months?---Okay. The point I was making there was that in Murray's letter dated 12 March, as you're aware, he pointed out various alleged performance issues with me. The point I'm noting in four months is how Mr Jorgensen formed those views in such a short period of time, given that largely for the first couple of months, he was trying to find his feet with regard to the complexities and issues faced by the City and I would have to say, consulted me quite regularly with regard to matters that were on his plate.

40

Was the point you were making that you've been at the City for a much longer period of time than he has and you know more about the City than he does?---No, that wasn't the point. It was really what I explained before. He hadn't been there for very long and yet, I'd never had any performance issues at all raised with me and in the space of a couple of months, suddenly I've got, whatever it was on there, 20 issues being raised.

45

When you make that comment about no issues raised with you, does that include that final 360 degree feedback that was prepared?---No, because that feedback wasn't part of our formal Performance Appraisal system, so most recent feedback would have been provided by the CEO, Martin Mileham, back probably July-ish.

The one done by Mr Malloch?---No, the formal performance appraisal was done by Martin Mileham. Mr Malek's 360 degree was something that Murray introduced and you mentioned it was done by staff, it was only done by managers as far as I was aware, and Directors.

Just one comment from either a manager or a Director in that 360 feedback analysis was, "Longevity doesn't mean you know better than everyone else"?---Yes. What's the question?

The question is, that seems to have a connection with the comment you make in your second paragraph there about how long you'd been employed at the City for?---That wasn't the intent.

Thank you, Mr Mianich. They are the only matters, sir.

COMMISSIONER: Thank you. Mr Mianich, I just have a few questions of my own for you. You were asked by Mr Bourhill about the hierarchy of Directors and I listened carefully to your evidence on that. At meetings of the ELG or the Executive Leadership Group when matters were brought up by one or other Director, what role did the Chief Executive Officer play in deciding whether to act on the advice of one Director or another?---Well, his role obviously was to Chair the meeting. So generally if the subject matter being raised by the Director related to the Directorate function of that Director, I think it would be fair to say, as I said previously, that comments would be invited from other Directors but generally the views of the Director in charge of the Directorate would prevail.

Would that occur even if the CEO had a view different to that Director?---I don't recall any particular instances of that, no.

In your view, if a Director had raised a matter and there had been a difference of opinion with another Director, do you think it would have been appropriate for the CEO to, as it were, make the call?---Most certainly, that's the role of a CEO.

And to make the call, he would of course have to be advised of the difference of opinions?---You would think so.

And it would be helpful, would it not, for him to understand the reasons for those differences of opinion as well?---I would think so.

Thank you. Mr Bourhill, is there anything arising out of that?

MR BOURHILL: No, Commissioner.

COMMISSIONER: Thank you. Mr Urquhart, is there anything arising out of that?

5

MR URQUHART: No, thank you, sir.

COMMISSIONER: Mr Mianich, I'm going to do two things now. First of all, I want to thank you for your evidence. It has been of assistance to the work of this Inquiry. Secondly, I will at this point discharge you as a witness from this Inquiry. Is there anything else that needs to be dealt with by way of housekeeping matters, Mr Urquhart? If not, I will adjourn the Inquiry pro tem to allow the arrangements to be made for the next witness.

15 MR URQUHART: No further housekeeping matters, thank you, sir.

COMMISSIONER: Thank you. I will adjourn the Inquiry pro tem.

WITNESS WITHDREW

20

(Short adjournment).

HEARING RECOMMENCED AT 12.14 PM

25 COMMISSIONER: Yes, Mr Beetham.

MR BEETHAM: Thank you, sir. Sir, the next witness will be, and I call, Mr Murray Alan Jorgensen.

30 COMMISSIONER: Thank you. Mr Jorgensen, would you please come forward and take a seat in the witness box. Mr Jorgensen, will you take an oath or make an affirmation?

MR JORGENSEN: I will take an oath, please.

35

COMMISSIONER: Thank you. Madam Associate.

MR Murray Alan JORGENSEN, sworn:

40 COMMISSIONER: Thank you, Mr Jorgensen. Please take a seat. I will now hear applications.

MR ROBINSON: Thank you, Commissioner. Mr William Robinson here with Mr O'Neill from Wotton Kearney Lawyers. We filed an application for leave to appear on behalf of Mr Murray Jorgensen on 25 September. I'm not sure if the Commissioner has a copy of that.

45

COMMISSIONER: I've read it, thank you. I will just turn to Mr Beetham and see if there's any objection. Mr Beetham?

5 MR BEETHAM: There is no objection, sir, and there will be no objection to the applications to be made by my learned friends.

COMMISSIONER: Thank you very much, Mr Beetham. In that case, leave is granted.

10 MR ROBINSON: Thank you, Commissioner. Mr Tuohy?

MR TUOHY: Commissioner, I seek leave on behalf of myself and Ms Saraceni to appear for Mr Mileham.

15 COMMISSIONER: Yes, leave it granted.

MR TUOHY: Thank you.

20 MS RANDALL: Commissioner, I seek leave to appear on behalf of Mr Mianich.

COMMISSIONER: Yes, Ms Randall, that leave is granted.

MS RANDALL: Thank you.

25 COMMISSIONER: Are you ready to proceed, Mr Beetham?

MR BEETHAM: Yes, sir.

COMMISSIONER: Thank you.

30

EXAMINATION-IN-CHIEF BY MR BEETHAM

35 Mr Jorgensen, I see you've got some documents in front of you. Could I just ask you to close that up for the moment and if we have to look at those, I will ask you to turn them up in a second. As you heard, my name is Mr Beetham and I just want to ask you some questions today about your time at the City of Perth?---M'mm.

40 Before I do that, can I ask you just to restate for the benefit of the transcript, your full name, please?---Murray Alan Jorgensen.

And your date of birth?---21 October 1954.

45 And your address?---My permanent address is [REDACTED]. My temporary address while I'm working in this particular role is [REDACTED].

And your current role at the moment?---Is Chief Executive Officer, City of Perth.

Have you held that role since 27 November 2018?---My recollection is it was 19 November.

5

Was that as a substantive CEO or Acting CEO?---That was as Acting CEO which was subsequently confirmed on 27 November to be CEO in order to provide a signal of stability to the organisation.

10 And that was November 2018?---Correct.

Am I right that in the middle of this year, on 30 July 2019, your contract as CEO was extended for a period of time?---That is correct.

15 And it remains on foot today?---It remains in place until 1 August 2020.

Could I just ask you - I'm just going to take you to some of your background, Mr Jorgensen?---Mm hmm.

20 Am I correct in understanding that you commenced your work or roles in Local Government or government in about 1973 at the Shire of Swan and you were an administrative clerical officer?---Correct.

25 And you were there for a couple of years before moving to the Shire of Gnowangerup?---Gnowangerup.

Gnowangerup, is that right?---Correct.

30 And you were there as Senior Clerk and Assistant Shire Clerk?---Correct.

And from there you moved to the Shire of Harvey from 1978 to 1983 and you were the Assistant Shire Clerk there too?---Correct.

35 Just on that topic, can you explain for those of us in the room who don't know, what is a Shire Clerk?---A Shire Clerk is what is termed a Chief Executive Officer of a Local Government authority, so back in the 70s and early 80s - sorry, all of 80s and part of 90s, the role, the number 1 administrative role was a Shire Clerk or a Town Clerk.

40 What was the role of an Assistant Shire Clerk, is that comparable to something in Local Government these days?---It would probably be best described as the Director of Corporate Services.

45 Thank you for that. From the Shire of Harvey you moved to the Shire of Manjimup?---That's right.

And you were the Shire Clerk there, which is, as you've just discussed, effectively

the Chief Executive. That's right.

You were there, were you, from 1983 to 1988?---Yes.

5 And is it from there you moved to the town of Albany?---That's correct.

Were you there for about 10 years?---Just over 10 years, I think from memory.

Were you also the Town Clerk and General Manager there?---That's correct.

10

Were you also involved on the Albany Economic Development Committee?---Yes, I was the General Manager of the Albany Economic Development Unit.

15 Is that a unit within the town of Albany or is it a separate organisation?---It's a unit within the town of Albany.

Is that a role then that you held co-extensively with your role as Town Clerk?---Yes.

20 I understand from 1999 to 2001 you were the Commissioner of the City of Cockburn?---That's correct.

25 And were you appointed to that role to manage the Council during a period of Elected Members suspension?---That is correct. The Elected Members had been suspended and it was a very similar Commissioner role to that of the current Commissioners at the City of Perth.

30 From the City of Cockburn, you then were a member of the statutory Review Committee of the Department of Fisheries for a couple of years?---Yes.

And from then, you were the inaugural Chairman of what's called the Integrated Fisheries Allocation Advisory Council?---That's correct.

35 And these roles in the Department of Fisheries and the Fisheries Allocation Advisory Council, those are governmental roles?---State Government roles, yes, and they were held in parallel to operating a business, a private business, consulting, so they weren't consecutive appointments.

40 So you held those roles co-extensively with the business you ran and do I understand that business to be Murray Jorgensen & Associates?---Correct.

45 I will come to that business in just one moment and ask you to explain what that is. I will just finish off what I understand to be your employment history. From the Fisheries Allocation Advisory Council, or at about the same time, were you also the Chairman of the Forest Products Commission?---Yes, I was the inaugural Chairman of the Forest Products Commission.

And can you recall how long you were there for?---I think approximately five years.

5 While you were there, did you also hold the role of Chairman of the WA Plantation Industry Ministerial Advisory Council?---Yes.

Is that a State or Commonwealth Council?---State body. That also involved the private sector.

10 This business you mentioned, Murray Jorgensen & Associates, am I right in understanding you ran that from 1998 to 2018?---Correct.

15 Can you explain to the Commission what you did in that role?---It would be fair to say that it was a boutique consultancy initially in Local Government, but quite quickly expanded into the private sector as well. The nature of the work was anything from strategic planning to governance work to executive performance coaching, to business planning and quite a lot of other projects that I just can't recall off the top of my head.

20 Is it fair to say that the work you undertook in that role as part of that business, all of that work had a sort of managerial flavour or bent to it?---It all was at either the board level or the Council level or alternatively, Executive level and only occasionally would be training of whole teams which might go down further into the organisation.

25 Into, say, officer level?---Correct.

30 Employee level. Do you continue to run that business or are you retired from that business now?---That ceased just prior to commencing at the City of Perth. Effectively, I was about to retire and was asked to consider applying for the role here and given initially, the short-term nature of that offer, I accepted.

35 I will come on to the role of - some more detail about your role presently, but just to complete your background, as it were, can you confirm for me that you hold the following qualifications: a Municipal Clerk's Certificate of Qualification?---Correct.

40 That you are an accredited Master Practitioner in the Human Operating Systems?---(No audible response).

Is that management - - -?---That's more behavioural profiling and understanding personality behaviour.

45 Do you also hold a certificate of graduation from the Coby Leadership Centre?---Yes.

And a Diploma in Local Government from about 1982?---Yes.

And you've completed a Company Director's Course and the Executive Development Course at the Australian Institute of Management, Australia?---Yes. I understand, Mr Jorgensen, that you're also a member of the Order of Australia Association?---Yes.

And that you were awarded the Order of Australia medal in 1999 for services to the region of Local Government, particularly in the City of Albany, is that right?---That is correct.

And were you awarded the 2002 Centenary Medal for similar reasons?---Yes, from the Federal Government, yes.

Finally, Mr Jorgensen, am I right that you're also a member of the Royal Association of Justices of Western Australia?---Yes.

Does that make you a Justice of the Peace?---It does, number 8164.

And you're a member of the Local Government Professionals Incorporated?---Yes.

I said finally but now finally, are you also a retired member of the Australian Institute of Company Directors?---Yes.

And a fellow of the Local Government Managers Association?---Yes.

Thank you, Mr Jorgensen. Can you please give an overview of what your role is presently at the City of Perth as the Chief Executive Officer?---Clearly there's a statutory role which is spelt out in the Local Government Act which I would need to refer to, to go into that detail, but primarily it is the senior most responsible officer for implementing Council decisions and ensuring that the organisation operates efficiently and effectively and in accordance with the law.

As the senior most member of the Administration, do you have a view about whether or not that means, as the holder of that office, you're the person ultimately accountable and responsible for the administration of the organisation?---That's spelt out in the legislation that ultimately you are responsible for everything, but obviously in an organisation like the City of Perth with such diversity, you have to rely, and I don't pretend to be a technical expert in all matters relating to engineering, information technology, community development, but I have to be across all those subjects and ultimately have responsibility for those.

Is it right that you ultimately have responsibility for, and I think this might be one of the requirements or references in the Local Government Act to which you referred, ultimately responsible for advising Council in respect of the business of the City, is that right?---Absolutely, yes, that's correct.

When you joined the City of Perth as acting and then substantive CEO, are you

able to give an impression of what you understood or what you came to see as your primary - the primary things you needed do while you were there? Do you understand that question?---I do understand the question. I'm just trying to recall the specific brief that the Commissioners gave me on appointment. From memory,
5 it was to provide stable leadership and implement any considered reform necessary to try and rebuild the relationships the City needed to rebuild with community, stakeholders, Commissioners and more importantly, recruit a new CEO.

To ultimately replace you, is that right?---To ultimately replace me, but given that
10 the City had been through an incredibly unstable period, which has been well documented publicly, whether it was in the number of CEOs and Acting CEOs over recent years, stable leadership was probably the primary responsibility I was given.

15 [12.30 pm]

Have you received any feedback from the Commissioners or the staff at the City about whether or not stable leadership has begun to be reintroduced to the City?---I've received feedback from both Commissioners and staff on the
20 leadership. Addressing the first one through the Commissioners, I had a Performance Review carried out prior to the renewal of the contract.

That is the renewal in the middle of this year?---Correct, and it would be fair to say it was a very positive experience and feedback on the leadership and the progress
25 that was being made. The feedback from staff, I have probably had - let me just think - at least four what I would call pretty well full staff briefings where I've brought all the staff together to explain what my plans were.

Did you say four of these?---Four sessions. The first one, I think, was within a
30 month of starting.

Are these - one of the phrases I've heard to describe these types of meetings, is like a Town Hall meeting where you have everybody in the organisation?---Correct.

Is that what you mean?---That's what I mean and one of the things that I
35 committed to up-front was to be as open, transparent and accountable for all of my actions and the decisions that I would be taking. So where possible, I would outline in advance my intentions, so that there was clear understandings of changes that were going to occur and at the end of each session, I would ask three questions
40 and ask for staff feedback, which were confidential surveys. The three questions were: did you find - this will not be word perfect.

I understand?---Did you find the information presented today useful and
45 informing? On a scale of 1 to 10, 1 being low, 10 being high, how would you rank that? The second question was, do you feel that the City is in good hands with the current CEO, scale of 1 to 10, and the third question was, do you support the plans and actions, or what is your level of support to the plans and actions proposed by

the CEO, again on a scale of 1 to 10. After every one of those sessions, I think in the main - I can't recall the exact number of respondents but it was in hundreds.

5 On each occasion, on all four occasions?---On each occasion because I was benchmarking whether there was a honeymoon period, e.g., a new CEO, could I sustain support and if it was deteriorating for any reason, what was the cause of that? Was it I needed to communicate better, and it would be fair to say the lowest level of support at any stage has been around about 7.5 out of 10. It's probably been nearly 8 to 9 out of 10 across the staff on those three questions.

10 So in respect of the questions - I will go through the questions just so I understand that clearly. The first one about whether or not the information was useful, it's around about an 8 to 9 out of 10 and the lowest was around 7.5?---Yes.

15 In relation to whether the staff thought the City was in good hands with the current CEO, again, 7.5 to 9?---Yes.

And similarly for the level of support for the plans of the current CEO, 7.5 to 9?---Correct.

20 The point of clarification would be, that was averaged, so there would be potentially a significant number of 8s, 9s and 10s but there might be a small number of 2s, 3s or 4s.

25 I see. Did you see the raw data itself or is it a process whereby you get the averages at the end the result?---At the end of each session, I get - I would scan on the day quickly with a person that was going to take the information away, to get what I would call an intuitive sense of what happened, and then in a matter of days I would get the collated data which was presented to me in a spreadsheet with the average numbers and a summary of the comments. Sorry, I did forget, the fourth question was, are there any comments or suggestions you'd like to make, which gave them the opportunity - or do you have any issues or concerns? So that was more of a qualitative assessment on where they may have been at, at that particular time.

35 In relation to the third question about whether or not there was support for the plans and actions of the current CEO, I'm going to show you a few documents during the course of your examination, but are those plans things like the Strategic Community Plan, the Corporate Governance Framework, are those the types of plans you're talking about?---It may have included some of those, but it would be things like - a good example is, I believe that the current structure that was implemented in 2015 is unsustainable and not in the best interests of the City for the following reasons.

45 Sorry, that's a view you expressed at this - - -?---Publicly to the staff, and that it would be my intention over time to reduce the number of managers back to a more sustainable level, which was potentially closer to half that number. So they would

be briefed in advance that that was my intention and direction and between that session and the next session, that may have been implemented. So the first session, if I use it as an example, would have been, here are my observations - - -

5 Can you remember how soon after you started that first session was, if you can give us a ballpark, a month or two or three?---It was certainly - I started in November. If it wasn't December, it was definitely January, so it would have been the first couple of months.

10 I'm sorry, you were saying something about that first session as an example?---That was really more about, here are my observations, here's what I think is missing at the moment. Here's what I think we will need to do to get it back on track, and the second session was, after I'd had a lot more time and opportunity to really understand the issues, and I remember the second issue was
15 saying that it's a bigger problem than I originally thought and in fact, I remember the analogy that at the first session I had a slide with an elephant on it and said, "The way we are going to solve this problem is collectively, one bite at a time. How do you eat an elephant? One bite at a time", because it wasn't something that had been created by one individual over a year or two, it was, in my opinion - a
20 perfect storm might be too strong a word, but it clearly had built over quite a number of years, the problems and the challenges the City had faced. So I remember the second session was really saying that, it wasn't an elephant, in fact it was a mammoth which was bigger and again, articulated what I considered to be the root causes and the solutions that we needed to go down.

25 In any of these sessions, did you talk about whether or not there had been, in your view, or there was an absence of a concept called good governance? Do you recall speaking about those things at all?---There would have been components of good governance that I definitely discussed and sometimes people see good governance as purely a compliance type matter that the governance team manages, whereas - -
30 -

Can I interrupt you there? Do you mean compliance with overarching legislative criteria, for example?---Correct, and responsibilities under other legislation, like
35 occupational safety and health, et cetera, whereas I have a view, and I think it's probably a fairly shared view in most areas of governance, good governance is almost everything the organisation does, or it should be present in everything an organisation does.

40 Are you able to expand or amplify, if you can, your view about what good governance means in a Local Government context?---Putting aside the specific legislation of the Local Government Act and the City of Perth Act, I think a lot of the principles of good governance flow through the private sector as well as the public sector, but I think if there's four fundamental pillars in place, then I would
45 regard good governance being in place, although in saying that, it is inextricably linked to the quality of the people delivering or attempting to deliver good governance. So you can have good process, good framework, but if it's ignored by

the people, you won't have good governance. So the four pillars that I see that really underpin good governance, Pillar 1 would be strategy and leadership. You need quality leadership which I would say at all levels, that's the board or the Council level, and leadership from the CEO, leadership from the Executive,
5 leadership from the management, leadership being behaving with the appropriate values, observing the other pillars of governance. Second to that is jointly working together as an effective team.

By jointly, do you mean the organisation as a whole?---That's the Elected
10 Members or in the current case, Commissioners.

I see?---And the Executive which ultimately means the total organisation.

The two sort of leadership groups, is what you're talking about there for the
15 City?---Correct. So specifically during the period of the Inquiry, 15 to 18, I would say leadership is the Lord Mayor as being one person that's responsible for leadership. I think the Elected Members or the Councillors operating effectively as a unit, with the Lord Mayor leading them is essential in good governance in Local Government.

20 Yes?---I think again, publicly potentially, although I didn't experience it, that's been questionable as to whether that was effective. I would then say leadership is the relationship between the Lord Mayor, the Council and the Chief Executive Officer. There needs to be again, strong, aligned leadership.

25 Can I ask you about that in the context of the City as it is at the moment, can you say anything about the relationship between yourself and the Commissioners?---My perspective on it is that, it is a strong, united, focused and driven relationship on getting good governance back into the City of Perth. We
30 believe we have identified most of the issues relating to good governance, subject to what may come out of the Inquiry, and that we have plans in place to redress those

[12.45]
35

I will come to those plans later on, Mr Jorgensen. Can I ask you a couple of questions following on from the passage of evidence you've just given and I will just flag for you what those two things are. The first is people and the second is the four pillars. So you mentioned that good governance is inextricably linked to
40 the quality of people, the quality of people in the organisation, as I understood. Are you able to say anything about your experience with the staff at the City of Perth in this context, since joining the City?---The quality of people overall at the City of Perth, and one of the reasons I actually accepted a continuation of my role, was that I realised the vast majority of people at the City of Perth were absolutely
45 dedicated, committed professionals trying to do the right thing in a very difficult environment and I believe I had made reasonable progress towards restoring stable leadership and good governance. So I felt a strong, deep, personal commitment to

wanting to support their recovery and capitalise on the qualities that they actually bring to the table. At an Executive table - so the initial comments I've just made related to the organisation as a whole but at the Executive level, and my initial observations were, on an individual basis the Executive were all attempting to do the best they could and in some cases were doing very good work; collectively, they weren't highly effectively. I believe I observed tensions that were created before I started that had carried on.

Are you speaking there of tensions as between the members of the Executive?---Correct.

And do I understand your evidence to be that those tensions in your view were a cause - perhaps not the only cause but were a cause of what you saw as a less than highly effective Executive, is that what you're saying?---Yes, sir. The cultural environment that I observed with the Executive was competitive, more than collaborative and in saying competitive, the City didn't - a strategic view of the City didn't come first, it was more a Directorate's needs or priorities.

One of the words we have heard in this Inquiry time and time again, Mr Jorgensen, and I think it might be in respect of what you're talking about, is that there was something of a siloed mentality as between the Directorates; is that something that you observed?---That's certainly what I've observed and when working with many other executives in Local Government, siloed or competitive executives aren't as effective as collaborative, dynamic - - -

This is something, is it, that you have seen in other environments other than the City of Perth?---Correct.

Are you able to express a view, based on your long experience in Local Government, whether or not it's more usual than not to have siloed mentalities within Local Governments?---I would only be able to refer to the local authorities that I've either worked with or seen, so I can't talk about something that would be scientifically tested across all Local Governments, but generally - the best way to describe it is, it would be one or the other. You're either siloed and competitive, or you're effective and collaborative and certainly the effective Local Governments have collaborative Directorates.

And you've seen, as I understand it, both of these environments in your time in Local Government?---Yes, but not as bad as probably the City of Perth.

In terms of the siloed mentality?---Yes.

If I can come back now to the four pillars you mentioned. You mentioned the first one, strategy and leadership. Since joining the City, the four pillars, have they been incorporated into any policy or other formal documentation of the City?---We have a draft Corporate Governance Framework that I've endorsed which I've tabled as part of my statement, which has a few amendments since I approved it, very

minor amendments, that will go forward as a discussion paper in the next week or two to the Commissioners and then shortly after that, it will go to a formal Council meeting for adoption. I think I would say with confidence that the core of the document will align with Commissioners' thinking but as any document or recommendation, the Council has the right to amend or modify as they see fit.

I will ask Madam Associate to bring up a document now and ask if you can identify it for me. Madam Associate, it should be the document, in brief, 0035. Sir, the TRIM reference ought o be 25150.

COMMISSIONER: Thank you.

MR BEETHAM: Do you recognise that, Mr Jorgensen?---Yes. That is the document I'm referring to.

This is a draft - - ?---Sorry, that's the front cover of the document I'm referring to.

Yes, and this is the draft or at least the front cover of a draft Corporate Governance Framework that's going before the Commissioners later this month?---Although it doesn't say draft, it is our proposed Corporate Governance Framework and until it's adopted by Council, it certainly is not an official document that's been published or on the intranet, or internet.

I understand, it's not an official document yet of the City?---No, but it certainly guides my thinking and the current Executive's thinking.

Were you involved in the preparation of this document?---I had it prepared. I required to be prepared. Our Manager of Governance, with his team and referring to other local authorities and other contemporary work, prepared the draft.

Is that Mr Ridgwell you're talking about?---Yes.

So him and his team prepared the draft?---Yes.

But it's a document, as I understand your evidence a moment ago, that you have read and endorsed?---I have read and endorsed.

Does this document contain reference to these four pillars you were talking about?---Yes, it does.

I will show you a page of the document, Mr Jorgensen. Madam Associate, could you go forward to page 51? This is page 14. Is that large enough - hopefully it's on the screen in front of you?---I'm sorry, I'm looking there. Thank you.

We can enlarge that, Mr Jorgensen?---No, that's fine. Yes, that's the four pillars I'm referring to and I started to address Pillar 1 which was strategy and leadership. I think I've only dealt with leadership.

You've pre-empted where I'm going, Mr Jorgensen. Can I ask you now to elaborate upon the other pillars, please, and Pillar 1 if you think you need to say a bit more about that?---Probably all I need to say on Pillar 1 to round that out is that for a Local Government to be effective, it needs to have very clear strategic direction and there is, I think, on a few pages later, an integrated plan framework which addresses specifically how you make sure strategy is in place. Pillar 2, in short, is clear roles and responsibilities between Elected Members and CEO and the Administration and it's not an easy delineation and quite often roles do get blurred, depending on the circumstances, but the stronger the clarity of roles, whether it's through on-boarding training of new Elected Members or staff, clear articulation in a document like this, where you can refer back to what is my role as the CEO or your role as an Elected Member, because the average person hasn't had a lot of exposure when they are standing for an Elected Member role, on that clarity of what is operational and what is strategic or policy driven at a Council level.

I will ask you in relation to that pillar in that discussion about roles and responsibilities and the delineations, some of the evidence this Inquiry has heard from people within the City, is that the separation or the attempted separation between the Elected Members and the Administration over the course of the Inquiry's Terms of Reference, 15 to 18, has led to difficulties in the working relationships and there's been a suggestion by those who were there, there needs to be a way to bring those Elected Members and the Administration a bit closer together. Do you have a view about that, whether that's something that should happen, or whether it's better to maintain the distinctions and the divisions between those two?---I think maintaining the distinction in roles and responsibilities is essential because without that, ultimately no-one is accountable. So if it's the CEO's role and responsibility or it's the Lord Mayor's or a Councillor's role or responsibility, that should be clearly articulated. What I think can lead to better practice, if not best practice, is where Elected Members and CEO, Executive, et cetera, are working collaboratively on the development of sound strategy and sound direction, so that Elected Members feel engaged, that they are part of the process and that they are part of the solution, whereas once the decision is made on strategy and direction, it really should be left to the CEO to deliver and be held accountable to deliver.

Thank you, Mr Jorgensen. Is there anything else you wanted to say about Pillar 2?---No, I think that covers it. Actually, sorry, I will correct that: the effective communication really is an example of what I was just talking about, the joint strategy and development of policy, et cetera. What I found at the City of Perth, which certainly has led to frustrations, is that documents were presented to Council almost like a fait accompli. A professional officer has delivered it and prepared the report and quite often would be defensive of proposed Elected Member changes. The culture that we are trying to embed at the City of Perth at the moment is one where, through early engagement of the Elected Members, or in this case the Commissioners, we get strong input, influence and direction before

we prepare a detailed plan or a strategy. So we would put out a discussion paper first to prompt the Elected Member feedback. So that's an example of where I'm talking about trying to work closer together but it's using a tool or mechanism to that, without blurring the lines of responsibility.

5

And is the purpose of that exercise to effectively have an early interaction between the officer preparing the report, officers preparing the report, and the Elected Members and their policy and strategic thinking, so that the report that goes up to the Councillors is something about which both the Administration and the Council have some ownership and involvement in, is that right?---Yes, sir, that's exactly the intent of it.

10

[1.00 pm]

What about Pillar 3?---I think Pillar 3 is transparent decision-making and in the main, I think the City of Perth did that quite well. I think that there is good access to information, there is good disclosure, there is good transparency of decision-making. People mightn't agree with it but overall, I think the City does that quite well.

15
20

Was that an observation of yours when you first joined the City as well in November/December 2018?---Yes.

25

And?---Then pillar 4 is really about monitoring your organisation's performance and being held accountable to that, and that will include making sure that risk is properly managed so that when you're looking at major changes, that risk is contemplated, compliance with legislation is contemplated and then certainly, ultimately, whether you've delivered or not which is performance management.

30

I note the time, sir, but if I can just ask Mr Jorgensen one more question.

COMMISSIONER: Of course.

35

MR BEETHAM: Are you able to tell the Commissioner, where do the four pillars come from? Are they a well-known framework in Local Government? Is it something that you or the officers have devised?---The actual source, I couldn't tell you but they certainly are reflected in many Local Government Corporate Governance Frameworks.

40

So the four pillars that people in this space are generally familiar with?---Correct. It may have come, and I haven't researched, but there is a corporate governance network of professional Local Government officers that bring together a lot of resources and documentation to try and get consistency in Local Government, and I wouldn't be surprised if that's where it's come from.

45

Thank you, Mr Jorgensen. Sir, I note the time. I'm in your hands. That might be a convenient moment though to take the luncheon adjournment.

COMMISSIONER: Yes. What time would you like to resume?

5 MR BEETHAM: Sir, I understand that Mr Urquhart will have a witness
interposed at about 2 pm, so if that's convenient, sir, 2 pm.

COMMISSIONER: Very well. I will adjourn the Inquiry to 2 pm.

10 **WITNESS WITHDREW**
(Luncheon Adjournment)

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HEARING RECOMMENCED AT 2.02 PM.

COMMISSIONER: Yes, Mr Urquhart.

5 MR URQUHART: Thank you, Commissioner. The next witness is Martin Mileham and I can see that Mr Mileham is already in the hearing room.

COMMISSIONER: Thank you. So we are interposing Mr Mileham in the evidence of Mr Jorgensen?

10

MR URQUHART: Yes, we are, thank you, sir. At the completion of his evidence, then Mr Jorgensen will continue with his evidence.

COMMISSIONER: Thank you. Mr Mileham, please come forward and take a seat in the witness box.

15

MR Martin Nicholas MILEHAM, sworn: .

COMMISSIONER: Thank you, Mr Mileham. Take a seat, please. Yes, Mr Urquhart.

20

MR URQUHART: Thank you, sir. Leave is not required?

COMMISSIONER: I beg your pardon, my mistake.

25

MR URQUHART: There will be no objection taken.

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

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MS SARACENI: Yes, together with my friend, Mr Tuohy.

COMMISSIONER: Leave is granted, thank you. Ms Randall, you seek leave?

35

MS RANDALL: Commissioner, with your leave, for Mr Mianich.

COMMISSIONER: Thank you. Leave is granted. Thank you.

MR URQUHART: Thank you, Commissioner

40

EXAMINATION-IN-CHIEF BY MR URQUHART

Mr Mileham, from what I've observed, I think you've been in the hearing room all week during the course of this evidence, is that right?---Pretty much, yes.

45

Has there been any time when you haven't been?---Maybe the odd occasion when I ducked out.

I see. Would I be right in saying you've paid close attention to the evidence given this week?---To parts of it, yes.

5 So you were present then apart from leaving briefly, for all of Mr Nicolaou's evidence on Monday?---I think I saw Mr Nicolaou's evidence, all.

And then Mr Mianich's evidence yesterday and today?---Yes.

10 So I'm going to ask you about a number of matters that have been examined this week, okay?---Yes.

Before I do that, I just want to go to some legislative provisions in relation to the roles and duties of Chief Executive Officers of Local Governments?---Yes.

15

So the first one, Madam Associate, will be, Local Government Act, section 5.41, please. That will be at or about page 157. There we go, Mr Mileham, the heading of section 5.41 is, "Functions of CEO" and "The CEO's functions are to", and I just want to take you to (d) of that list. Madam Associate, if we can go to the next - it seems to be already there, yes, on that page. Can you see that there on the screen in front of you or does it need to be enlarged?---Yes, I can see.

20

So it reads:

25

Manage the day to day operations of the Local Government.

I will just ask you this general question, do you believe you were effective in completing that function?---Yes, within the confines of the resources available to me.

30

Was there a deficiency in the resources that were available to you?---I think the Organisational Compliance and Capability Assessment that I commissioned identified some shortcomings, yes.

35

What were they?---I think there were 17 areas and five recommendations that followed and they were predominantly around, whilst culture was not addressed specifically, the OCCA identified some shortcomings in systems.

40

Right?---It identified a non-compliance in a particular legislation area. That's off the top of my head. I haven't looked at the document lately but basically it was a road map of saying, we need to address the systems, the staff, the compliance issues around the laws that applied, because there's 400 pieces of legislation, five head pieces of legislation and I think about 70-odd services that the City provided. So it sort of told us that we were doing okay in some and not so okay in others.

45

And the other area I wanted to take you to is in fact - Madam Associate, that can come down - is the Local Government Financial Management Regulations and

there were some provisions there relating to CEO's duties as to financial management and I just wanted to draw your attention to regulation 5(2)?---Yes.

You won't see it up on the screen?---Okay.

5

So I'm just going to read it out to you, if that's okay:

The CEO is to ensure that the resources of the Local Government are effectively and efficiently managed.

10

All right?---Yes.

Were you able to ensure that that was the case in your time in the position of CEO, and when I say in the position of CEO, I'm referring to when you were acting and then when you became the substantive CEO?---I'm sorry, could you clarify just that last bit?

15

Yes. When I talk about, in your position as CEO, I'm talking about when you were acting and then when you became substantive?---Okay.

20

So that's from January 2016 on?---Okay.

So the question was, did you ensure that in your time, that the resources of the Local Government were effectively and efficiently managed?---I would repeat my earlier comment, that I did it to the best of my ability. Now that said, on handover or no handover should I say, becoming CEO - let me use an example. I was on the sixth floor as a Director of Planning. I like to characterise it, I was thrust into the lower basement with the lights off and by the time I finished as CEO, I believe we had got that elevated to the ground floor but there was still 10 floors to go. So efficiently and effectively? I would say within the confines of what was available to me in resource base.

25

30

Did you know what you were walking into when you accepted the acting role first?---Parts of it. Not all, some.

35

Even though you'd been at the organisation for some years?---I'd been there for I think three years as Director of Planning and I think people have spoken of silos.

Yes?---Certainly they were there at the outset but more distinct than perhaps they were - I like to think they were at my departure. So for that reason, certain things were not visible to me at that time.

40

That subsequently became visible?---Yes.

Then 2(c) of that sub-regulation says:

45

The CEO is to undertake reviews of the appropriateness and

effectiveness of the financial management systems and procedures of the Local Government regularly and not less than once in every three financial years, and report to the Local Government the results of those reviews.

5

?---Yes.

Did you ever do that in your time as CEO?---I don't think I hit the timeframe but certainly the OCCA that I referred to was not an audit but a compliance assessment on those systems and it made recommendations in respect of the financial management systems.

So with respect to that item or document that was prepared, did you have in mind that particular regulation, or not?---All of the regulation, as it applies to - it was a compliance review across the board and whilst not a specific recommendation, we brought an implementation plan to Council on about the 20-something of November in 2017. So we took the five recommendations from that, which covered all of the issues they were talking about, systems, governance, finances. An implementation plan was put together and presented to Council in November and of course, Council was suspended by February the following year.

So they never happened?---Not really, no.

I will want to draw your attention now to some questions regarding the overall financial performance because that's one of the matters this week that the Inquiry's looking at. So you've heard evidence about the City's operating surpluses shrinking in the seven years to 2018?---Yes.

As you were only in the CEO position as of January 2016, now I want to concentrate on that timeframe?---Yes.

So Madam Associate, if we could now put up on the screen 3.1482. This, Mr Mileham, is one of those graphs that have been prepared by Mr Nicolaou that we have been looking at during the course of this week. Although you would have seen it before, I will just give you an opportunity of familiarising yourself with it again?---Yes.

So the first graph on the left is the "Overall operating financial performance underlying cash basis and net operating balance basis." If we just concentrate on the time in which you were in the position of CEO, that would be in the timeframe of part of financial year 16 through to financial year 17 and then also - well, on and off financial year 18?---18.

So can I just clarify, I know you went on leave I think on 18 February of 2018?---Yes.

And then as I understand it, you came back - - -?---Yes, I did

- - - for a short time?---Not for a short time, I had some annual leave for four weeks which I think was in April and that had been built up over some time, hence why I took that leave because I hadn't taken any.

5

Yes?---That's recreational leave. Then I think I ceased work late August, early September and did not return substantially after that time.

[2.15 pm]

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So it would cover the financial year 17/18?---Yes.

We can see there that the net operating balance in your time in the position of CEO essentially - I will say had because essentially it flatlined?---Yes.

15

Do you see that?---Yes.

Did that cause you any concern?---No, not undue concern. As I think was explained, what did concern me were the high gaps between operating revenue and expenditures that had existed and that had changed over time. The explanations for those changes are varied. However, what is clear in my view is that it's an obligation of a Local Government not to make "profit" but to have a responsible service level and surplus that goes with that. Now surplus, meaning that you have, if you like, a factor of safety applied to your revenue and expenditure equation.

20

I understand that. So let's then look at the surplus in that next line graph. So just to remind you, the operating revenue is the purple line?---Yes.

Less the Perth Parking Levy and the Emergency Services Levy?---Yes.

25

And then the operating expenditure is again the orange line less the Perth Parking Levy and Emergency Services Levy?---Yes.

And we can see there that does show the gap between the operating revenue and the operating expenditure?---Yes.

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Do you see that?---Yes.

Again, I will just ask this question of a general nature once more, and you've probably partially addressed it already but if you want to amplify your answer further, did this cause you some concern?---I think again, the OCCA contained a graph that showed an intersection of the two curves earlier than that one does, so we addressed that immediately. However, this graph I think shows operating expenditure less the Perth Parking Levy but I don't know the source data because obviously even though they have zeroed out the cost in collecting it, I'm wondering whether that's actually reflected in the opex graph because obviously to collect 25 cents in the dollar for parking and pass that on to government is not a free

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operation, so there must be some marginal cost to the City of that, so I don't know what that base data is.

But the point I was making is that by financial year 18?---Yes.

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The difference in operating revenue and operating expenditure had lessened to just a fraction over \$8 million?---Yes, and I subsequently set a target surplus of \$5 million.

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So that meant that you were prepared for it to go lower than the \$8 million?---Yes. We agreed on the terms of the rate setting statement, that the City was at risk of overstating its requirement for rates. As you may have heard, as we heard the depreciation argument, the non-cash depreciation, I think some Councils have very high non-cash items in depreciation which then affects the rate that's levied. My ambition was to keep rates at CPI or lower increases. I in fact offered Council at the beginning of my tenure a zero rate rise in the first year and that was knocked back. So there was a deliberate flattening, if you like, of that revenue curve in straitened times, and that was to be followed by an efficiency dividend within the workforce where we were looking for 2 per cent cuts across the board, and we had an undertaking to Council to find 10 per cent savings in the operating line. So we were endeavouring to keep the service levels appropriate, in other words, people paying rates getting the services they are paying for, without building up an undue surplus based on, should I say, overly ambitious rate rises. As you will have seen, some Councils raise the rates, 6, 7, 8 per cent per annum. We were going with .8, 1.2, CPI.

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So a surplus narrowing to \$5 million?---That was a target we had. That was an unofficial surplus target.

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So when you say a target?---Yes.

You were endeavouring to ensure it didn't go below \$5 million?---We would want to hit around \$5 million. Obviously if you budget something and at the end of the year you're off by a bigger margin, that budget's no good. So people I think misunderstand a budget and they think it's really good if you come in under budget. Actually, you want to come in on budget. So the reality of operating a Local Government, which is a service organisation, is, you are not there to make profit. You are there to serve the people, the ratepayers, and provide services. Any moneys that are banked, for want of a better term, through surplus, in themselves get turned to services to the ratepayer. So that was the ambition, to maintain an appropriate and fiscally responsible surplus.

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So the net operating balance being of that size at the end of financial year 18?---Yes.

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Did you see that?---Yes.

You were content with that?---Not content. I wanted to, underlying those numbers, do more work around testing the efficiency of services because I believed that we could bring the costs of service provision down. In my first or second year, I think, we brought down the cost of construction and maintenance opex by about \$2.5 million and eliminated half a million dollars per annum in unnecessary overtime, and we removed the risk of leave build-up. There had been a huge leave accrual in the City over years which was a big risk to the City, and we brought that risk down. So those kind of margins become much more feasible when you attend to the hygiene issues in the operating budget. Just to clarify, I do come from a private sector background where the rule of thumb used to be 1, 2, 3, 1 for salary, 1 for overhead and 1 for profit. Now City of Perth is not about the 33 per cent profit, it should be about an appropriate operating budget to deliver service and maintain a sufficient buffer in cash reserves.

Just on the subject matter of matters of finance at the City of Perth, you were in the hearing room this morning when Mr Mianich referred to that draft letter he had prepared for Mr Jorgensen, do you remember that?---Yes, I do recall reference to that, yes.

And in my examination of him after his counsel had finished asking him questions, I drew his attention to a sentence at page 3 of that letter. It's only a short sentence so I will just read it out to you?---Yes.

:

The current Directorate Accountant Model is fundamentally flawed and leads to a repetition of financial data. This risk was advised to the current CEO - of course, not you - by the DCS early in the commencement of his role.

Was that your view at the time that you were CEO, that the current Directorate Accountant Model was fundamentally flawed?---I wouldn't call it fundamentally flawed. I think there were operational flaws. To clarify, that was - having been a Director of a non-financial Directorate, I had found that management reporting financially was difficult to get. I was used to a private sector situation where I could, at the touch of a button, know my trends, my costs, my et cetera, et cetera. Because of the devolved model that was in place at the time I took over the City, those conditions were experienced by all Directorates, that they had to re-interpret what would you would call deep financial information out of basically a financial system not built for managers who are non-financial, they would have to re-interpret, and they would doing that ad hoc and informally. So as an Executive we attempted to come up with a system that could address that shortcoming and the Directors didn't want to "lose control" of the finance function because they had found that sometimes it was difficult to interpret the information. So the idea was that we would have an accountant within a Directorate, talking to the Manager, Finance, as I think Robert alluded to, a reporting line dotted so that the two were working closely. In operation, his view was it didn't work; my view was it

improved visibility for the Directors, or was intended to. Now, did it work in the long-term? It was certainly not intended to be a long-term solution. The intention was to centralise procurement because my experience had been, even the pens and papers were bought by the individual units and Directorates in a completely decentralised procurement fashion when I joined the City back in the six years previously that I joined it. So we wanted to go away from that complete devolved situation to a more central arrangement.

10 You said you attempted to introduce change?---Yes.

15 Were you successful?---Not 100 per cent. I think that there was still this tension between the Directorate who's obviously been handed a target, a budget and a target to hit that margin, and the ability to manipulate, or should I say to plan. Again, coming from the private sector, often times you will argue with head office about allocation of overhead and that tended to be an issue even in the public sector.

20 In your position though as the CEO, if you wanted to enforce these changes?---Yes.

And you believed they were for the better?---Yes.

25 Wasn't it your responsibility to do that?---Yes, and we were in the process of changing the system. The chartered accounts was - I think Robert referred to the chartered accounts. It was complex and had been built up ad hoc over many years so we just fundamentally redesigned the chartered accounts. Before - any system that you change must continue to operate. One of the things that's been perhaps overlooked a little here that 80 per cent of our work is continuing to deliver ratepayer services. So it's not a case of, if it ain't broke, don't fix it, but certainly don't interrupt service delivery while you make major change. So what we had to do was consider it in a five year timeframe, and my ambition was to fundamentally reform the City from when I took over, day 1, to the day I finished at the end of year five in a continuous improvement process while not interrupting services, to change to a centralised management process with robust financial systems. It doesn't happen overnight.

40 Were you on track to do that within a five year timeframe when you left the City?---When I left the City? We had been delayed by some time. When the Commissioners came in, they basically halted all programs, including any recruitment or derecruitment, for want of a better term. I was told no person was to be hired and no person was to be fired until they said so.

45 Were you on schedule then, just prior to the appointment of the Commissioners?---I believe within reason, although there was a delay in the target on the CPP because we had targeted October, I think 2017 for a robust Business Plan on CPP.

You've touched on this briefly but I'm going to explore it a little bit more and this is regarding staff at the City of Perth?---Yes.

5 As you may be able to recall, Mr Nicolaou gave evidence about staff and contract labour being by far the largest expenditure category for the City, 47 per cent of total expenditure in financial year ending 18?---Yes.

10 And then the City's labour expenditure had increased at a faster rate than other government benchmarks?---Yes.

Do you remember his evidence about that?---Yes.

15 We will just have a look now at those tables that he prepared. Madam Associate, this is now 3.1484. Sir, the TRIM number for what's up there at the moment, 1482 and this document is 25087.

COMMISSIONER: Thank you.

20 MR URQUHART: Once more, Mr Mileham, I know it's been up on the screen when you've been in the back of the hearing room, I will just give you a moment to have a look at what charts or what graphs I'm talking about here?---Yes.

And tell me when you've completed that exercise?---Yes.

25 So I'm just trying to glean from your evidence, and correct me if I'm wrong, but in your time in the CEO position you had some concerns about the increasing staffing costs?---Yes, because the restructure had never had a business case, nor Business Plan. It had begun in 2015. It was probably the sole, clear instruction I had from Council as a CEO on taking over, was to implement that structure - when I say
30 "we", in conjunction with HR and the rest of the Exec, we built a plan around how to make that happen within the existing employment budget and I think allusions were made to a \$7 million charge to the employee cost line due to redundancies. So I had a concern to control that within the existing staffing budget. The former CEO had not put in place any budgetary treatment for that restructure and yet it
35 was clear it was going to cost around that number. So we built that into the financial planning. My ambition, should I have stayed, was to see that line plateau and then come back. In terms of the contract labour, in there I think we had, for example, in that time, a \$500,000 exercise to do the audit, we had contract labour doing specific tasks. So that contract labour would have dropped away. So again,
40 over the five years, my plan had been to replace what I saw as expensive contractors with staff, where possible, do away with unnecessary overtime because it would appear that, if you looked at the staff profile when I took over, there was way too much overtime being done which told me we could employ more people in a cheaper and more efficient way. So that was the plan that was in hand. We
45 were well on the way to that with early savings, but there was more to be had. I think \$3-odd million was seen as a potential saving through centralised procurement and we were headed towards that as well.

[2.30 pm]

5 I see. With respect to the line graph that appears on the right-hand side of the page?---Yes.

Just to remind you, the purple line is the City of Perth staff expenditure?---Yes.

10 And then the orange line is the City of Perth staff expenditure, and contractors?---Yes.

15 So just pause there for a moment. In your time in the position of CEO, were you concerned about the amount of contracting that was taking place?---We were vigilant. Just to clarify, because again without the source data, the City of Perth plus contractors, I'm assuming includes the purple line with the contractors added to it?

20 Yes?---So that will include therefore the redundancy payment that I talked about, so the overall trending would have been flatter.

Maybe not?---Maybe not?

25 Maybe not, but in any event, the question I was asking you was whether you were concerned about the increasing cost of contracting?---Well, I'm not sure. Was I concerned? I was concerned to control the overall cost of the workforce. So yes, you would want to be concerned about an unnecessary increase in the workforce for any reason, contract or FTE.

30 Was there some unnecessary increase that you observed?---I felt that at times Directors could have been perhaps a bit tougher on themselves and I don't think that's unusual. I spent some time in the State Government, in fact, I was responsible for the transition from the Department of Planning and Infrastructure into two departments.

35 Okay?---And I saw - - -

I'm sure that was all very commendable, although we haven't got the time to go there?---Okay. Sorry, your question?

40 So getting back to some of the Directors, as I understand your evidence, were a bit reluctant to implement any change in that regard?---No. What happened was I required that they submit a justification for any new staff member in writing and that anybody leaving the organisation would not automatically be replaced. Once upon a time, if a position became vacant, it automatically got advertised to be
45 filled. We changed that and said no, as soon as a position becomes vacant, we will assess whether that position is required. What we were evolving at the time of my termination was a Target Business Model which had a substantially reduced

structure and in fact I think you will see that target, if you were to take the document that predated the arrival of the current CEO, we had proposed a reduced structure but over a longer timeframe.

5 I think I asked Mr Mianich this, so in the advent of a Director seeking someone to replace a staff member who had retired or resigned or left the organisation, and that being knocked back?---Yes.

10 What safeguards were put in place to ensure that director didn't simply contract that work out, because you would be robbing Peter to pay Paul?---Yes. There were safeguards in that any position filling needed my visibility at least and that's micromanagement that frankly you shouldn't require, I accept that.

15 I was going to ask you, how did you find the time to do that?---We did it at the Executive and I had assistance to prepare - the Directors would, prior to the consideration of the vacant positions, prepare a justification document. That would be presented to my Strategy Manager who would look at it from a strategic point of view in relation to the Target Business Model and say to that Director, before it even got there, "Well actually, this position isn't in the Target Business Model so we are not recruiting it." So a lot of it wouldn't even make it through that triage process, but when it did get to the table, I would assess it and at times I had to overrule the request for a staff member.

25 Did you do that?---Yes.

Frequently?---Not frequently, probably a small percentage of cases where a Director would be adamant that it was a commercial requirement and my view would be, let's just try it and if the service levels drop, then we will look at it.

30 Again, just trying to distil your evidence and correct me if I'm wrong, but in your time in the position of CEO, you saw that there was an increase in staff expenditure that wasn't always justified?---I think it was always justified. The strength of the justification may be at question but I was pretty confident that we had a system that was vigilant enough to be effective enough and as I said, the cost line included redundancies. It also included a lot of in-flight programs. As I've said, they are looking at the new systems didn't come free. So whilst - again to characterise, in private sector you don't attempt to reduce staff costs, you attempt to increase profit and efficiency. So every dollar you spend on staff, if you get \$3 of value back, then you employ more staff. So there's not just that simple thing that low staff costs are good because low staff costs mean you're not servicing or you're not making money, so you go out of business. So you've got to be careful about the balance between cost and efficiency.

45 Mr Mileham, I want to move now, please, to City of Perth Parking?---Yes.

You've been in the hearing room where there has been a fair amount of evidence in that regard?---Yes.

And I gather you would agree with this proposition, that the CPP - I'm using the shortened term for City of Perth Parking?---Yes.

5 CPP revenue was a significant source of income for the City of Perth?---Yes.

It seems to be approximately 40 per cent of the City's revenue was raised from its parking?---Yes.

10 Before this week, when you heard evidence about it, were you aware of the unique position that the City of Perth was in regarding income from parking compared to other capital cities?---Yes, because I met with the CEOs of the other capital cities on a regular basis and particularly Adelaide who had had a large parking business and their advice to me was, never let that go because we regret doing so. "Don't let
15 the State get hold of it", was their comment. The reality was that it was a unique situation in terms of the service it provided because it's actually a policy lever. It's not just a business, it's also a policy lever around public transport and provides free public transit in the free transit zone. So it's a combination. It's a joint venture. What's not well-known is that in 1956 there was the Perth - I think it was called the
20 Perth Parking Act which was superseded in '99 by the Perth Parking Management Act. So there is a long history of the State and City administering parking in the City under specific legislation.

1956 is well before our Terms of Reference, Mr Mileham?---It's just a history, apologies for that.
25

That's all right. So if we can have a look at 1486 now, which are some graphs prepared by Mr Nicolaou in this regard?---Sorry, to answer your question fully, you did ask was I aware of its uniqueness. I was.
30

I understood that you were, yes?---I was aware of that and further, I was aware that, for example, Sydney has a unique revenue from rental properties. So each of the capitals has its own interesting additional source of revenues and the diversity factors are different across each City.
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Was the City of Perth over-reliant on the income that was generated by its parking?---Over-reliant?

Yes?---The reality is that it enabled the City to do things that it wouldn't otherwise have been able to do. Over-reliant I don't think is the right term because the parking business I think, funded capital works such as the library.
40

So we look at 1486 now and the bar graphs there just demonstrate, firstly the purple ones?---Yes.
45

The number of car parks?---Yes.

Which was significantly more than the combined number of car parks for Adelaide, Brisbane, Melbourne and Sydney, and then the number of bays that fell within the City of Perth control is the orange bar graph there?---Yes.

5 It would seem - I haven't done it precisely, but the number of bays that the City of Perth had control over exceeded the entire number combined of Adelaide, Brisbane, Melbourne and Sydney or if not, about the same?---So just to clarify, and I wasn't too sure when I saw this graph, on the left-hand side we are saying that's number of facilities?

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That's the number of car parks, yes?---As in multi storey facilities or at ground?

That's it, yes?---And on the right-hand side we are talking about number of commercial bays, off-street?

15

Number of car parking bays in its entirety, as I understand it?---In entirety?

Yes?---I would question the Sydney one because I don't think it's right.

20 So - - -?---Because the Sydney revenue from parking far exceeds, I believe, the City of Perth's revenue from parking and that's both on and off-street.

We can check that but nevertheless - - -?---I think it would be worthwhile, yes.

25 But what I want to concentrate on is the fact 40 per cent of revenue raised by the City of Perth comes from its parking?---From CPP, the business.

30 Yes?---It's probably a bit of a misnomer to call it the City of Perth's parking business because as I said, it was set up under the auspices of that Act and run as a policy lever.

That's how it's been referred to in all the documentation from the City of Perth?---Yes, but it's not entirely accurate.

35 Okay. Well, I'm still going to refer to it as CPP?---That's a brand name.

All right?---That is a brand name.

40 I think we all know what we are talking about?---Well, to be fair, I'm not sure that we all do because I think the legislation is multi-headed and it needs some further investigation about what we are talking about.

45 So how effectively did the City, in your time in the position of CEO, manage its parking revenue?---Okay. The parking business I believe when I took over, was predominantly a P&L business. By that I mean, the whole City, and I think Deloitte identified this in the OCCA, because of the way things had been, we managed the City on a profit and loss annualised basis, which is not a very

strategic way to run a business. So my view is that the parking business was run year to year to generate good margins, for want of a better term.

5 The question was, how effectively in your view did the City manage its parking revenue?---I think effectively as a revenue earner, yes. It got better, certainly as we went along. I think a lot of the systems were very aged, hence why we promoted the bringing in of the Integrated Parking Management System because we had a system that could not be changed from a desktop in the City. For
10 example, if we wanted to recalibrate the parking machines and meters across the City, we will to individually go to each device and change it. So changing the pricing regimes and so forth in on-street was difficult, changing the parking regime and costs in the facilities was difficult. I think the CPP had run like that for many years and we needed to bring it into the 21st century as both a policy lever and a transport business and that was the segue we were going through.

15 One statistic that Mr Nicolaou was able to provide was the actual parking revenue generated by the City from financial year 12 to financial year 18?---Yes.

20 Was broadly flat and then it just grew over that time on average at 1.3 per cent per annum?---Mm hmm.

25 Were you aware of that particular stat?---I was aware that our revenue growth, particularly - well, in my tenure, in the couple of years I was there, there was a challenging revenue curve and we sheeted that home to changed habits and economic conditions.

This increase of just 1.3 per cent per annum?---Yes.

30 Was that of concern to you?---No, because it's a policy lever and if the cost of parking were to go too high the City would suffer, as would, if you took it too low, as would public transport. So that's why I've referred to the Act because it was originally designed around a policy lever to manage public transport demand and it has lately been used by the State Government to build, for example, the bus station entry on Wellington Street, a \$20 million payment. So it is not purely a business,
35 it is a policy lever and therefore a growth in revenue is kind of neither here nor there if the policy lever's working for the greater public transport task.

[2.45 pm]

40 Would you say to the proposition that the City became complacent regarding its parking as a revenue source?---I think the City certainly budgeted year on year for significant revenue from that business and it was time to reconsider the diversity factor in the make-up in the City's revenue.

45 So the answer to the proposition?---Complacent?

Yes?---Depending who you are talking about, Council or Administration?

I'm just talking about the City in general?---I think perhaps Council might have had a bit of a view that you could continually discount parking until it was free and it wouldn't be a problem. I think that was complacency. I think it was not viewed
5 in the terms of being both a business and a policy lever, so I think there was an education process that we were trying to get going about what parking was for. It wasn't a cash cow, it was a policy lever but it also produced cash, which the State Government uses for infrastructure as much as the City. So that education was ongoing.

10 It was identified - I think Mr Mianich actually used that phrase, it was a cash cow, in his evidence this morning?---That's his term. I wouldn't call it a cash cow, I would call it a legitimate generator of revenue.

15 But a cash cow, as I understand the meaning of it, is the profitable business that's used to support less profitable ventures within an organisation?---No, a cash cow has a more denigratory resonance in my head. I see it as something that people don't try very hard and money just comes in. That's not the case. This was a service provision.

20 That element of complacency then?---Complacency I think - - -

25 Which I think you've identified Council was exhibiting but you don't say that with respect to the Administration?---I think I qualified complacency, I said there's perhaps a misunderstanding of its purpose and it needed to be revisited because I don't think the CPP business had been looked at substantially since the 90s.

So was it revisited in your time as the CEO?---Yes.

30 In what regard?---As I said, the Deloitte's review identified a requirement for robust business planning in the business which had not heretofore, in my view, been evident. By that I mean, long-term strategy about where we were going because if we are going to be brutally honest, one day parking won't be required. So it would be a bit like owning the Yellow Pages when Google comes around. So
35 obviously we had to, in my view, diversify and divest ourselves of parking over a 10 years period. Autonomous vehicles and other transport solutions will make parking virtually irrelevant in the central City.

40 Okay?---Furthermore, if I can just clarify, just to finish the answer, we did a commercial - I asked the director of DCC for her key performance indicator, if you like, was delivery to me of a commercial review of the parking business.

45 Let's turn our attention now to Deloitte's, because you mentioned there that a report, which was finalised and provided to the City in June of 2017, which was in your timeframe. Does that sound about right to you?---About right, that was when we received the report, I think.

And it brought to the City's attention, that report, that it didn't have a Business Plan?---Under the auspices of the Local Government Act, yes.

5 Were you surprised to hear that?---I was very surprised, yes. However, as I've said, subsequent to that initial surprise when looking into the actual legislation governing it, I think there's more work to do even today about what that means.

10 Do you accept any responsibility for that failing?---Given that I asked for the audit and compliance and discovered it through that process, I accept both responsibility for finding it and not knowing it.

So does one balance out the other?---Well, I think - - -

15 I ask that because you read the provisions of the Local Government Act that refers to major undertaking, major financial undertaking?---Yes.

20 It stands out that the City of Perth would be one such undertaking?---The CPP? No, actually it doesn't because when you analyse - as I've said, if you ask people that were there in the day, it was set up prior to the changes to the Local Government Act, prior to the bringing in of the federal ledge around contestability and so forth. They were all addressed by lawyers at the time and that was put in place as an Act and administered in duality by the City and the State. So when I began my job, my first thing was to look at parking and say, my first question to the parking business is, what are you? Are you incorporated, are you an
25 undertaking, what are you? I had a view on that and Deloitte's came in and gave us their view on that.

30 And is there a Business Plan, did you ask them that?---I asked them what their strategy was and what their business planning was and as I said, it was predominantly P&L on maximising revenue.

So they answered - when you asked if there was business planning?---Yes.

35 Did you they say to you, "No, there's no Business Plan"?---No, they said there was an annual Business Plan, for want of a better term, which aims to maximise revenue.

40 It's not really a Business Plan though, is it?---Well, it's a Business Plan. I don't know if it's the one that's appropriate for the purposes of strategy.

Yes. How important did you regard the introduction of a Business Plan once it was brought to the City's attention by the Deloitte's report?---For the legislative need?

45 Well, just the introduction of a Business Plan?---Well yes, I think we had business planning documents but they weren't called, you know, CPP Business Plan or 1721 or all that, so that was important. Hence why I asked for a commercial review.

What I instructed the Director to do over a period of some 24 months was bring to me what I called a due diligence process which looked top to bottom at the CPP and told us what it was, because no-one was entirely sure what kind of animal it was, but also to say, what are the strategic considerations we need to take into account in - much as if you were doing a M&A and you were looking at a potential buy-out, what is that business and what are its costs, what are its revenues, because this had never, in my view, been done or certainly hadn't been done in the last 15-odd years.

10 So the Business Plan was a requirement under the legislation?---The Local Government Act.

Yes?---Yes, but as I've said, I don't think it was designated as a major business undertaking and nor had it been.

15 What importance did you place on a Business Plan for the City of Perth being a full commercial Business Plan?---I think that's important and needed to be generated, yes.

20 No doubt about that?---Well, if you're going to, as I've said, prepare a business - part of the due diligence process is what do the out years look like and a Business Plan would tell you that.

25 So it wasn't just a case of preparing a brief Business Plan that just ticked the box as far as a legislative requirement was concerned?---Well, there was a feeling that there was a necessity perhaps to do that because of the legislation. I wasn't convinced because the legislation actually says, "Before you commence a major business undertaking, you shall do this." It commenced in 1993 so that horse had well and truly bolted. Also, the provisions of the Act in talking about the preparation of a Business Plan, talk about consultation with the public. So the box ticking effort is probably not that important or even, shall we say, essential. However, that needed to be clarified. So in my view - - -

35 So a full commercial Business Plan introduced as quickly as possible?---Yes, and certainly not before you knew what you wanted to do and certainly without disclosing commercial in confidence information to the, for want of a better term, the competitors, but I would call them the colleagues in the parking provision business.

40 Were you aware of that competitive neutrality provision?---Yes.

You were?---Yes.

45 I asked Mr Mianich this question?---Yes.

Were you aware whether those responsible for City of Perth Parking in the City were adhering to that regime?---The regime says the Executive must be confident

that they are not, so it's not that specific. We were relatively confident that we had a compliant approach to that legislation. Again the business itself predated that and we were in the process of a commercial review and a compliance review. I think also the waste business, the waste business - - -

5

We are just staying with the City of Perth Parking?---Well. The neutrality there also applies there, so there are many aspects of Local Government services where you cannot compete unfairly. The State Government does it too.

10 Can I ask you to comment on some evidence of Mr Mianich?---Yes.

He assumed that there was a Business Plan in place for City of Perth Parking?---Yes.

15 And he presumed it was produced or prepared in 1995?---I believe that was his evidence, that a Business Plan under the auspices of the Act.

Yes, and that that was the plan that was still ongoing over 20 years later?---Yes, I recall his evidence, yes.

20

In your view, and this is your personal observation, for a Director of Corporate Services, was that a somewhat naive view to take?---I don't know about naive.

25 How would you describe it?---Well, given that no-one's yet clarified whether it does require one under the auspices of the Act, because that's not been a ruling that's been given by the Minister or anyone - - -

I'm not going to get into a legislative argument with you?---Right, okay.

30 The section there, there's an argument that it does, subsection (8) but leave that aside?---Okay.

Leave that aside?---Is it naive?

35 You said you didn't think that was the right word so I'm just going to ask you, how would you describe it then?---As a Director of Finance giving its - sorry, should I say the Director of Corporate Services and having a finance task within his Directorate, I would have thought he would be across it as much as he saw necessary. Is it naive? Would I have done it? Perhaps. If you allowed me to
40 think maybe how I would approach it, I can give you a better answer.

I'd probably rather if you looked at it from Mr Mianich's point of view, bearing in mind he has vastly different qualifications to you?---Yes.

45 In the area of finance and accountancy?---Given that I would be reliant upon that Directorate for all financial advice, I would hope that he knew everything he needed to know about the business.

But he didn't know whether there was a Business Plan or not?---That's what he said.

5 Yes, so that's somewhat of a serious oversight, isn't it, in your view?---I really can't comment on the seriousness of it.

I know you probably don't want to comment on it, but it is an oversight of some magnitude?---I think in financial terms, he knew what the business was doing in profit and loss terms, which was essential. That was the most essential thing.

10 Be it as it may, I'm asking you, it is an oversight of some magnitude and you can either agree or disagree with that?---It's a difficult one to answer because I don't know the impacts of it not being there. It's an oversight.

15 Not knowing the impacts of the lack of any Business Plan for a venture as big as the City of Perth Parking?---It's a compliance issue, not a financial issue, in that space. So not knowing that compliance issue is an oversight.

20 You maintain, do you?---Well - - -

You maintain, it's not an oversight of some magnitude that there was no Business Plan, whether it was required by legislation or not?---I didn't say that.

25 No, I'm asking you that now?---Okay. If there was no Business Plan whatsoever, that's an oversight.

30 One of some magnitude?---Yes, you would need to get that fixed. That's why, when the audit came in and said, "You need a Business Plan for it", we said, "Let's get one."

20 years after the Act said one was required?---20-something years after. Again, as I say, you're going back to the legislation. I'm not interested in the legislation, I'm talking about the corporate business.

35 So whether the legislation was there or not - - -?---Correct.

- - - that required a Business Plan?---Correct. We needed a Business Plan and a strategy for CPP going forward.

40 So who then was responsible for not ensuring there was a Business Plan?---Director of Corporate Services had parking within the remit and I tasked the Director to produce the necessary strategic documents.

45 As of 2017, yes?---Well, as of 2016 actually.

2016, actually?---It was the first thing I asked for, before the OCCA, I might add.

All right then. So prior to that, prior to 2016 and you raising it?---M'mm.

Who was responsible for that oversight?---Well, there was a Director - - -

5
In your view?---Well, the Director prior to that. CPP operated, and I think reasonably operated, for want of a better term, in a silo fashion because of the governing legislation, but the Director, in my view, was responsible for the business. That said, it had significant cross-funding into the City's operations that I think the financial management of it is a very important part of the City.

[3.00 pm]

15
Mr Mileham, do you recall this matter coming before an agenda settlement meeting some time in the second half of 2017?---Which matter? As in the Business Plan?

The Business Plan and these matters?---I'm afraid I don't recall, no.

20
You haven't had an opportunity of seeing these emails but I will show them to you now?---Okay.

Madam Associate, if you could bring up 3.1516. TRIM number, sir, 25103.

25
COMMISSIONER: Thank you.

MR URQUHART: And we work our way from the bottom and go up, Mr Mileham, as has always been the case with email trails. So this is from Niloha Mendosa who was the Assistant Internal Auditor and it's an email to Rebecca Moore and it's titled, "Compliance Audit Return 2017 - commercial enterprises by Local Governments", and it's to do with, as the title suggests, the Compliance Audit Return. I just want to draw your attention with respect to the City of Perth Parking Business Plan to the second last paragraph, do you see it?---Yes.

35
It says:

I notice that the City of Perth Parking (CPP) Business Plan was not reported to Council in 2017. Could you please provide me with an estimated date on when this will happen.

40
Do you know why it was that that Business Plan was not reported to Council in 2017?---I don't know that it wasn't and I don't know why if it wasn't.

45
If we go now to 3.1515, thank you, Madam Associate, and this is Ms Moore's response the next day, Tuesday, 25 January, do you see at the bottom there?---Mm hmm.

"Hi Niloha" - I hope I've pronounced that first name correctly:

5 *The report to Council on the major undertaking was completed in
September - and then over the page, Madam Associate, back to 1516 -
It was pulled indefinitely at Council agenda meeting in early October.*

That would be early October of 2017?---Yes.

10 Does that help jog your memory as to why the Business Plan wasn't reported to
Council in 2017?---That's the agenda settlement meeting we are talking about?

Yes?---I don't recall. I can surmise why it would have been not taken further.

15 Before you surmise, maybe we will have a look at some of the further emails that
are exchanged between these two ladies. So 3.1515, back to that now, thank you,
Madam Associate. There in the middle of the page, Ms Mendosa says:

20 *Hi Rebecca, thanks for your response. Are you able to provide the
reason for pulling out this item?*

Then we go back to Ms Moore's response again on that same day, 25 January,
"CEO decision"?---Yes.

25 Which would have been you?---Yes, if I did.

Have you got a recollection of doing that?---No.

30 Any idea why, if you did, you would decide to withdraw this item?---The reasons I
would prohibit an item going past agenda settlement was because it wasn't good
enough.

35 Is that your recollection?---No, it's not my recollection but I'm saying the reason
that I would overrule a matter going past agenda settlement stage, i.e., to go to
Council, would be that I was not satisfied with the report.

I take it then that if it was withdrawn because of political reasons, that wouldn't be
appropriate, would it?---Well, no.

40 Or whether it was the month of an election?---No.

The reason why I'm asking you that is another document that the Inquiry's been
able to obtain. So in fairness to you, I need to put that to you and invite your
response?---Yes.

45 Again, this is another document you haven't had an opportunity of looking at, but
Madam Associate, if you can go to 3.1517, thank you. To put this into context,
Mr Mileham, this was a Commissioner briefing note in relation to parking that was

prepared for the Commissioners, of course, and you can go to the bottom there, you will be able to see the date - it might have to be enlarged - 9 April 2018 and it would appear to be prepared by Ms Emma Landers who, as I understand, was a manager at the time; is that your recollection?---Yes.

5

And it just sets out some background, as the title suggests, "Background of current situation" and it talks about the requirement of a Business Plan because of section 3.59. I don't think there's the need for you to read line by line for this but if you feel that you need to after I've asked you a question with respect to one sentence over the page, will you please let me know?---Sure.

10

Thank you. If we go now to 3.1518, this is the second paragraph that appears below those dot points at the top of the page that starts off, "The plan was developed in September", do you see where I am now?---Yes.

15

So it says:

The Business Plan for CPP was developed in September last year and was held from advertising due to political uncertainty. The Business Plan will be advertised in May as per the requirements under the Act and the outcome and feedback will be presented to Council in July 2018.

20

So the sentence I wanted to draw your attention to, Mr Mileham, is that, "The plan was developed in September last year and was held from advertising due to political uncertainty"?---Yes.

25

Do you have any comment to make as to, that was the reason given for the plan being held from advertising? The advertising requirement is part of the Act?---Yes, prior to commencing a major business undertaking, yes.

30

So Ms Landers has given that explanation as to why it was held from advertising, due to political uncertainty?---Yes.

35

So it looks like the matter came before the agenda settlement meeting?---Yes.

In early October 2017 and of course, October was the month of the Local Government elections?---Okay.

40

So that's surmising here, that was the reference to "political uncertainty"?---Yes.

MS SARACENI: Excuse me, Commissioner. Could I just get some clarification? Could I just have a moment with my friend?

45

COMMISSIONER: Yes, of course.

MR URQUHART: Certainly. I'm obliged to my friend. I think we can confirm

this, in fact if there's any confusion with the witness.

Mr Mileham, you understand about the advertising provisions in the Local Government Act?---Yes.

5

The only way the plan can be advertised for comment is if Council has approved it?---Yes.

You accept that?---Yes.

10

I think that clarifies it?---Well, the question is - - -

The bottom line is, I suppose I'd better ask you this question directly?---Yes, okay.

15

Given what's there is, was the item withdrawn at the agenda settlement meeting because of the fact that there was an election that month?---No.

So you haven't got a specific recollection of it?---No, I don't have a recollection of the withdrawal. I do have a recollection of seeing a Business Plan that was very short.

20

Yes?---And I do recall wondering about its fitness for purpose.

Good. In that case, I will ask you some questions regarding that. I gather from that answer there you've given, the content of this Business Plan was lacking?---Well, there were several issues around advertising a Business Plan at any juncture, political or otherwise. Questions - it asks for consultation, that's the purpose. I recall not being confident that we could answer all the questions that may be asked.

25

30

Clearly you read the draft Business Plan, if you haven't got a recollection - you have got a recollection of it, because - - -?---I have a vague recollection of seeing a fairly brief document. I couldn't tell you what colour it is or how much pages it is but I have a vague recollection.

35

Not that many pages at all?---All right.

So you were concerned about its content?---I was concerned that we got it right and agenda settlement process is about getting it right.

40

Is that also ensuring that it complied with the requirements of section 3.59 of the Local Government Act which talks about what has to be contained in the Business Plan?---Yes. Well, compliance with all the legislation, plural.

45

You see, the draft that was submitted to the Council, comprising of the Commissioners the following year?---Yes.

Was rejected and it would seem because of major shortcomings, have you got a recollection of that?---Their view was it was insufficient.

Yes, it didn't contain financial information such as operating expenditure?---Yes.

5

Capital expenditure and asset management expenditure?---As is required, yes.

So how was it that that insufficient draft Business Plan got to Council?---I was convinced by the Director that given the effluxion of time, so to speak, and the fact the Act requires this to be done before a major business undertaking is undertaken, and given the comparison that I was shown between a similar Business Plan for, I believe it was Busselton Airport under the Local Government there, which was apparently compliant in terms of advertising, and given we had copious financial information that we could have addressed about the business, we felt that the Commissioners could consider that. They were adamant that it was insufficient.

15

Yes. Correct me if I'm wrong, but is it your understanding that the Director, and would have this been - - -?---Rebecca Moore, DCC, yes.

Her view was, it being simply a compliance document required by the Act, that it can go to the Council in this form?---There was a view that the Commissioners would have a more sophisticated view of what we were confronting. Perhaps we misjudged that. Also, the other issue of course around parking is commercial in confidence.

25

Can you just stay with my question, if that's okay?---Yes.

Was that your understanding, that the Directorate, and the Director in particular?---Yes.

30

Just regarded this as a compliance document?---It was partly - I would say it's a compliance document in part, yes.

But a compliance document that didn't have a full, comprehensive Business Plan?---I can't recall what the document said but I think it invites comment and therefore, access to information that we had.

35

Do you want to have a look at the document?---If it's useful to the Inquiry.

It seemed to be deficient. That's everybody's - - -?---That's the Commissioners' view, yes.

40

And it's also - - -?---In and of itself.

- - - Mr Nicolaou's view as well?---In and of itself.

45

It was inadequate?---For what purpose?

For the purpose of it being a proper Business Plan?---Under the Act?

5 No, just a Business Plan?---It's not that intent. I don't think it was ever intended to be the operating Business Plan.

So that being the case, was it just presented to Council in order to comply with the Act?---No, not just to comply with the Act.

10 Or to mainly comply with the Act?---That was the predominant reason, to bring it forward so that there could be consultation as is required as well.

15 Yes?---Given the fact that there was already non-compliance and it should have been done before, if you were to follow the Act right to the letter, which was impossible given that happened in '93.

But you had agreed with me or you regarded it as important that the Business Plan for City of Perth Parking would be a full commercial Business Plan?---Yes.

20 [3.15 pm]

This draft Business Plan that was put before Council didn't fit that bill?---Wouldn't satisfy a long-term aspiration for a robust Business Plan, in my view.

25 So why wasn't such a Business Plan put to Council then?---Well, I don't believe it was ready. It was certainly an iterative process. I can't recall the actual time because as you might imagine, it was a fairly turbulent time, given that Council had not long been suspended and this matter needed to be brought to the attention of the Commissioners. They had a view which they were clear to us about and so we went to plan B, I guess.

35 Shouldn't have plan A been a full comprehensive Business Plan?---That was in train, yes. As I said, we had a commercial review being done at that time, as a due diligence tool, to see - frankly, the business had never been reviewed strategically, not in my memory and that was a long-ish process and it was required to be done.

40 Could I just ask you why you did not at that time at which you saw the draft Business Plan wasn't adequate, it didn't have sufficient information for it to be a comprehensive, detailed Business Plan, why you did not say to Ms Moore, "No, this needs to be done properly and be part of plan A"?---Because the comparison was favourable to another Local Government's exact same conundrum, except that that was before the beginning of the major business undertaking, except for the fact that the CPP comes under special head legislation and apart from the fact, (c), that Ms Moore explained to me that there was copious financial information that gave us at least a 12 to 24 month Business Plan in there, and a Long-Term

45 Financial Plan had four years worth of plan, if you like. So the Commissioners, in rejecting it showed to me how they wanted to deal with that and that was fair. I

had a different view of how to deal with that matter. It was a decision I made based on the evidence before me and at the time.

5 All the Commissioners wanted was a comprehensive commercial Business Plan?---Yes, which we then endeavoured to provide to them.

It just seems to be a considerable delay in that happening?---26 years I guess it quite a delay, yes.

10 All the more reason then to - - -?---To not rush into it.

- - - expedite it?---Not rush into it.

15 There was no rushing here, was there?---Yes, but - - -

Because the inadequate plan that was presented at the agenda settlement meeting in October of 2017 did not address the shortcomings that you identified at that time?---Yes, as I say, I don't recall the original submission. It may have improved in the interim, I can't recall.

20 Then it was presented to Council - - -?---To Commissioners.

Yes, to Commissioner approximately six months later?---I can't recall the time, no.

25 But accept that was the case?---Yes.

30 Then if that was the case and nothing was done for six months?---No, not nothing was done. As I said, there was work done on the commercial review and the Commissioners, in not taking it forward, asked for more information which I believe was provided. I think we had the similar argument about what is a Business Plan and I accepted that that definition of, "This is the Business Plan for such and such" was not met and therefore we went back to the drawing board. That's the iterative process of presenting things to Council. Was it the best approach? Well, clearly the Commissioners didn't agree with my approach.

35 That was going to be my next question. Do you maintain it was the best approach or in hindsight you realise it wasn't?---It was the best available to us given the conundrum we were placed in with the time we had available to us. I believed there was a relative urgency about compliance and therefore we could look at that with the Commissioners and becoming, if you like, as compliant as we could be moving forward but that we needed to do a substantial job of reviewing the business strategically because it would be unwise to have a Business Plan without a, say, a five to 10 year strategy.

45 So just to wrap this up?---Yes.

Again, if I'm distilling your evidence incorrectly I'm sure you'll let me

know?---Okay.

5 It was your view that it wasn't appropriate for the City to operate its parking business without an adequate Business Plan?---We had to have a Business Plan, yes.

I gave you one definition of cash cow?---Yes.

10 And let's assume this is the definition, that it's a profitable business that was used to support less profitable or non-profitable endeavours of the City, okay. So use it on that basis. If the City of Perth Parking, if that support of it extended to overheads of other Directorates being allocated to the City of Perth Parking, that would not be appropriate, would it?---Well, if the overheads were expended in doing the business of parking it's appropriate and if they weren't, they wouldn't be.

15 So if it was the business of other Directorates?---Purely, yes, that wouldn't be appropriate. That would be a cost shift.

20 Yes. Who would be responsible for ensuring that did not happen?---I think we have had the Act read to us today, it ultimately would be me with, obviously, advice.

25 Yes, but others as well?---Yes. I would hope that the entire Executive Team would take a level of responsibility for that.

Governance?---Well, the entire organisation but ultimately the buck would stop with me.

30 I think it's a good segue to go into section 5.38. Are you okay to continue?---I'm fine, yes.

35 COMMISSIONER: Before you go on to that, Mr Urquhart, there's one aspect of the regime that does trouble me and it is something on which I would like to hear some submissions by Ms Saraceni and yourself. I would not normally do this, but it would help me understand what can be done with Mr Mileham's evidence on the City of Perth Parking undertaking. To do that, I'm just going to ask Mr Mileham to be excused from the hearing room for the moment so it doesn't in any way put him in a position where it can be said that his evidence is coloured.

40 MR URQUHART: Yes.

COMMISSIONER: Mr Mileham, would you please leave the hearing room for a moment?

45 **WITNESS WITHDREW**

COMMISSIONER: Ms Saraceni, I'll start with you. Do you have a copy of the

Local Government Act to hand?

MS SARACENI: Not with me, sir, no.

5 COMMISSIONER: Is there a hard copy that can be made available to Ms Saraceni?

MR URQUHART: I have one, sir.

10 MS SARACENI: I think there might be one here. May I have a look.

COMMISSIONER: It may be better if she uses Ms Randall's because you might want yours in front of you, Mr Urquhart.

15 MR URQUHART: Right, sir, yes.

COMMISSIONER: Ms Saraceni, you've heard a lot of evidence about the City of Perth Parking business - I'll call it that - being an undertaking and both counsel have raised concerns and sought clarification on various aspects of the Local
20 Government Act as it applies to this undertaking. Can I just get an indication from you, first of all, Ms Saraceni, as to which provision of the Local Government Act you say applies to this undertaking?

MS SARACENI: I'm just looking for the section number, sir, I just don't
25 remember it exactly - - -

COMMISSIONER: That's all right.

MS SARACENI: That talks about a major facility. Section - I'm looking at my
30 learned friend?

MR URQUHART: I've lost the tags to my Act.

COMMISSIONER: 3.59. I might just get you to open that up in front of you. I
35 will get you to go first of all, Ms Saraceni, and I'm sorry to do this to you in this way but I just need some clarity on this.

MS SARACENI: Yes. Sorry, sir, I'm just looking at the - - -

40 COMMISSIONER: That's all right, it will help me with the evidence.

MS SARACENI: 3.55?

MR URQUHART: 3.59.

45 MS SARACENI: I beg your pardon, 3.59.

COMMISSIONER: Take your time. If you need to read it, please do.

5 MS SARACENI: My understanding, based on what my instructions are from the witness, sir, and here is when did the City of Perth Parking commence, and he has referred today to the Act, the proper name of which is the City of Perth Parking Facilities Act 1956. Now obviously that Act precedes the 1995 Local Government Act. So the business of parking of the City of Perth in a nature may not have included the PCEC but generally that business predates this Act.

10 When you look at section 3.59 subsection (2), it talks about, "Before commencing a major trading undertaking." I haven't formed a view, sir, because it's just something on the run today, but that is an obvious issue as to whether it predates the starting of the Act and whether there actually needed to be a statutory Business Plan to comply with this.

15 COMMISSIONER: Perhaps rather than have you make submissions without understanding what I'm interested in - - -

20 MS SARACENI: I beg your pardon, sir.

COMMISSIONER: That's all right. I just thought it might be a more efficient process if I do it this way.

25 MS SARACENI: Yes.

COMMISSIONER: Can I direct you first of all to section 3.59 subsection (1).

MS SARACENI: Yes.

30 COMMISSIONER: And to the definitions part of that. It is your position that this would come within the definition of a major trading undertaking.

35 MS SARACENI: Sorry, sir, so we are talking about the City of Perth Parking business in totality?

COMMISSIONER: Yes, I am.

MS SARACENI: I just don't know offhand what the amount prescribed is.

40 MR URQUHART: \$5 million.

MS SARACENI: Yes.

45 COMMISSIONER: So is it your - I shouldn't say your position, I should say your client's position, that the City of Perth Parking business, I will call it that, is a major trading undertaking?

MS SARACENI: Currently it's obviously more than \$5 million based on what we had. I have no idea what it would have been in 19 - - -

COMMISSIONER: I mean now.

5

MS SARACENI: Yes.

COMMISSIONER: So that's the starting point. Then you were directing me to subsection (2) of that section which identifies when the obligation to prepare a Business Plan arises in subparagraphs (a), (b) and (c).

10

MS SARACENI: Correct, sir.

COMMISSIONER: I want to come back to subsection (3) because you will recall that is something to which I directed Mr Mianich's attention.

15

MS SARACENI: Correct.

COMMISSIONER: I want to skip ahead to subsection (8). You might just want to take a moment to read that before I ask you any questions about it.

20

MS SARACENI: Yes, it does talk about the reference to "continuing the undertaking", sir.

COMMISSIONER: The language is not straightforward, is it?

25

MS SARACENI: No, it seems to have been tacked on after the rest of it, which seems to be - - -

COMMISSIONER: Which is precisely why I'm seeking your guidance. What do you submit is the meaning and effect of that subsection?

30

MS SARACENI: I'm caught on the hop here, Commissioner.

COMMISSIONER: I realise that, and Ms Saraceni, please you don't need to give me an immediate answer. If it's something you need to think about and speak to your instructor about, please take that opportunity now but you can see how it's going to assist me in dealing with the evidence that's just been led, or I hope you can.

35
40

MS SARACENI: Commissioner, one of the difficulties I have is that assuming the \$5 million was the prescribed amount back then as opposed to currently, and I'm looking at my learned friend because I don't know whether that was in 1995.

MR URQUHART: Current.

45

MS SARACENI: There is some missing information that I don't necessarily have

at my fingertips and won't be able to get in a short time, sir, to try and make sense as to what that says but to the extent that it talks about "continuing the undertaking", I would have to read it more carefully, sir, to see whether that is the only reference to that continuation, or whether there's something else. The regulations might provide some input but as might the other special parking acts that my client was talking about. So apart from the 1956 Act, there is the Perth Parking Management Act 1999, repealing the 1956 Act. There are parking local laws, there is the local policy, various local policies, City of Perth Parking local law 2017. It seems to be myriad of things that might need to be looked at and one thing that my client did indicate to me is he wasn't sure whether, because of all this other legislation that exists around the business, there may have been an exemption provided to the City of Perth as a result because from at least 1956, the City of Perth and the State Government had worked in tandem, as it would seem, to deal with managing parking in the metropolitan area.

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[3.30 pm]

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COMMISSIONER: Some of that is the subject of evidence and some of it's not, but I just want to see if I can get some assistance from you on what you think that provision means for the purpose of understanding better the evidence that has been led.

5

MS SARACENI: Of course. My instructor, sir, has just drawn to my attention subsection (7) which talks about, before the major undertaking is actually commenced, the Minister must approve it. So again, it may be necessary to ascertain what, if anything, was done by the Minister at the time to approve.

10

COMMISSIONER: Yes. I appreciate that. So (7) deals with that point in time prior to commencement. (8) deals with that point in time when it has commenced and is continued.

15

MS SARACENI: Yes.

COMMISSIONER: So - - -

MS SARACENI: Sorry, sir.

20

COMMISSIONER: That's all right.

MS SARACENI: Again, my instructor has just very helpfully taken me to the fact that in the definitions section under section 3.59(1), there are two definitions.

25

There has been some focus on the definition of "major trading undertaking", but then there is a subsequent definition for - - -

COMMISSIONER: I know, that's why I asked you whether your client's position was that this was a major trading undertaking. It's for that very reason I asked that question.

30

MS SARACENI: Yes. Yes, there is a difference there, sir. Perhaps I if could have some time - - -

35

COMMISSIONER: Sorry. The reason I'm asking these questions now is because, we have Mr Mileham in the witness box at the moment and I would want to avoid that unfortunate position that might arise if there are different views about how this section applies and a need for further evidence. I want to avoid that inconvenience of having Mr Mileham come back when we have got him here now and we can ask him any relevant questions. What's relevant, of course, will be a matter for you to decide and indeed for Mr Urquhart to decide, hence my raising the point now.

40

Maybe I can just leave those questions with you for the moment because - - -

45

MS SARACENI: Thank you, sir.

COMMISSIONER: - - - they do go to the question of when the obligation - if and

when an obligation to put in a business case arises. I said I would come back to subsection (3) so maybe take this on notice as well. If you look at subsection (3) - you may not have had a chance to study this closely yet, Ms Saraceni, but it's important because if there is an obligation to have a Business Plan, then it would be important to know what's required because if indeed the requirement is that which is set out in subsection (3) of section 3.59, that can be quite easily, I would have thought, objectively measured against the document that is prepared in draft form.

10 MS SARACENI: Yes.

COMMISSIONER: So it's relevant to know what you say about that as well, but I will leave those matters with you because as you rightly say, I have asked you these questions without notice. In the meantime, I will just - yes.

15

MS SARACENI: Sorry, Commissioner. There's one point: we have never actually seen - my client perhaps has, but my instructor and I haven't seen the draft Business Plan, so I'm not sure what it looks like.

20 COMMISSIONER: That may be a matter that needs to be raised but I will come back to you on those construction questions in just a moment, Ms Saraceni.

Mr Urquhart, I also apologise to you for the lack of notice of this but just listening to the evidence of Mr Mileham on this point, it seems to me that now is the appropriate time to raise these construction issues.

25

MR URQUHART: Absolutely. Mr Parkinson, it seems, might have provided an answer to the concerns that you have raised, Commissioner. It is Schedule 9.3, Division 1 subdivision 7 of the Local Government Act, but more relevantly, at or about page 440.

30

COMMISSIONER: Helpfully for me, my page numbering is different to yours.

MR URQUHART: All right.

35

COMMISSIONER: So where is it, Schedule?

MR URQUHART: Schedule 9.3, Division 1, subdivision 7 which is titled, "Miscellaneous" and - - -

40

COMMISSIONER: I'm almost there, just bear with me for a moment.

MR URQUHART: It's clause 40. Madam Associate might be able to bring it up on the screen, that might be a good idea.

45

COMMISSIONER: Madam Associate, would you do that, please?

MR URQUHART: The Local Government Act, Madam Associate, if we bring that up, please and go to at or about page 440. No, let's try - what's that, clause?

MS SARACENI: 40.

5

MR URQUHART: Clause 40, so probably go through another 10 more pages.

COMMISSIONER: I don't think that's right.

10 MR URQUHART: No, one back. No, several back. Clause 40. So under the heading, "Commercial enterprises."

COMMISSIONER: "Does not apply in relation to an activity that was commenced before the commencement day", yes. Can we go to the next page, please? Just bear with me, Mr Urquhart, I'm just reading this. Madam Associate, would you enlarge that top part of the page, please? Thank you. Madam Associate, would you just go back to the previous page, please, and enlarge the bottom part.

20 MR URQUHART: Sir, there's also the document that's part of the Inquiry's Bates numbering which is was a short opinion prepared by Kathleen O'Brien, a paralegal in Governance whose name has appeared, from my recollection, favourably in the past and now again.

25 COMMISSIONER: Yes.

MR URQUHART: That's at 3.0830 through to 3.0831 which is TRIM number 21453.

30 COMMISSIONER: Yes.

MR URQUHART: She also refers to clause 40 and comes to the conclusion:

35 *Reading that entire clause as CPP operations are intended to continue on past two years after the operation's commenced, section 3.59(8) applies to an existing operation and the Business Plan process is a requirement.*

I would respectfully agree with that conclusion.

40

COMMISSIONER: Yes, that seems to be the answer, doesn't it?

MR URQUHART: Yes.

45 COMMISSIONER: Thank you very much to both of you.

MR URQUHART: Do you want it recorded on transcript that it was mainly you?

I'm certainly not going to refer to you by name, so the transcript won't know who I'm talking about, will they, Mr Parkinson?

5 COMMISSIONER: Ms Saraceni, I know this has come without notice, but have you had a chance now to read that clause in Schedule 9.3?

10 MS SARACENI: Yes, and it deals with a period of time that might be three years after this provision first came into being, which doesn't necessarily take that further. My concern remains, sir, because of the other legislative framework that exists and the provision here, whether there was any connection or what the connection is or any exemption that may or may not have been provided for example, under the Perth Parking Management Act of 1999, the financial requirements under there under section 23, a special account is to be set up.

15 To be able to answer, sir, I actually need a bit of time to go through it all and I may not have the answers to see, for example, if the Minister - if there was a need to exempt, whether the Minister actually did exempt or whether it was sought.

20 COMMISSIONER: I accept that. Madam Associate, could we just bring up 3.0830, please. Take a seat, Ms Saraceni, I'm sorry. Let's just have a look at this, please. Could you just go to the next page, please, Madam Associate. Thank you very much, Madam Associate, you can take that document down now. Mr Urquhart, you look like you want to make another submission?

25 MR URQUHART: No, I don't, not at all, sir.

COMMISSIONER: Once again, apologies for the interruption to the examination but that was most helpful to me.

30 MR URQUHART: In light of that, sir, I don't intend to explore any further with Mr Mileham this matter. I was going to move on and I still intend to do so.

COMMISSIONER: Yes, of course. Once again, apologies for the interruption, and Ms Saraceni, thank you very much for your assistance on this.

35 MS SARACENI: Thank you, sir. Do you require anything more specific separately?

40 COMMISSIONER: If you are of the view, after mature consideration, that some further submissions would be of assistance to the Inquiry, they would be welcomed.

MS SARACENI: Thank you, sir.

45 COMMISSIONER: Thank you. Madam Associate, would you please bring Mr Mileham back into the hearing room. Mr Mileham, please resume your seat in the witness box.

MR Martin Nicholas MILEHAM, recalled on former oath:

5 COMMISSIONER: Mr Mileham, let me start by saying your exclusion from the
hearing room is no reflection on you whatsoever. The reason for my asking for
you to leave the hearing room was because there was an issue about the
construction of the relevant provisions of the Local Government Act on which I
sought the assistance of both counsel, Counsel Assisting and your counsel,
10 Ms Saraceni and the reason I did that was because I thought it would assist me in
putting your evidence on the City of Perth Parking business into its proper context.
Thank you, Mr Urquhart.

MR URQUHART: Thank you very much, Commissioner.

15 [3.45 pm]

Mr Mileham, just before that short break, I was going to take you to another
provision of the Local Government Act, section 5.38. Madam Associate, if we
could have the Local Government Act up on the screen, please, and it will be
20 approximately page 155. Yes, that's the right page, thank you. Mr Mileham, 5.38
which is titled, "Annual review of employees' performance", and it's subsection (2)
I just wanted to draw your attention to:

25 *The CEO must ensure that the performance of each other employee -
that is apart from the CEO - who is employed for more than one year is
reviewed.*

Do you see that?---Yes.

30 I think I asked Mr Mianich some questions about this but was that subsection (2)
there complied with at the City when you were in the position of CEO?---Gee, the
entire period, I believe you probably wouldn't have had 100 per cent compliance.

I think Mr Mianich's evidence was mid 50 per cent?---When I began, I think, but it
35 raised.

But it wasn't 100 per cent?---Well, I would be venturing a guess, I don't know the
number.

40 The evidence from Mr Mianich would suggest that it wasn't?---100 per cent?

Yes?---Yes.

45 Are you able to offer an explanation for that?---I think the HR systems weren't
automated in such a manner that brought it to folks' attention in a timely way.
Perhaps automation would have helped with that. I also think that reviews may
have been done and not recorded because I found that some reviews had been done

and not found their way to have been recorded and reported, held in, you know - I think in my early days as a Director, some managers were doing and some weren't. So we did a review and revised the HR practices to get the compliance to somewhere close to acceptable.

5

So who would have been responsible for ensuring that the automated system was better?---Well, it's the CEO's responsibility, the Act's pretty clear. I had a job to ensure that happened.

10 And for reports not being recorded?---As I say, the CEO's role is to ensure those things happen. To the best of my ability, with the resources we had, I tried to get to 100 per cent compliance. Whether we made it or not - had we made it or not ultimately, unfortunately is probably now moot.

15 Is it too much to expect a CEO to comply with that section, particularly in an organisation the size of the City of Perth?---I think it's difficult but if the systems were - if you had a good system, it's possible.

I'm just going to ask you - these are questions about disparate areas?---Okay.

20

So the next one is a word we have heard a number of times, silo?---Yes.

The City's operations were operating in a silo fashion?---Yes.

25 Is that something you observed in your position as CEO?---It's a word that's been thrown around a lot. When I began - I will answer your question, but clarify it a bit. As a Director, it was actually, I believed, deliberately siloed and we segued to a less siloed situation. That said, there was decentralization of procurement and other things that led to a lack of integration which you would characterise as a siloed approach.

30

So not necessarily a good thing?---No, I mean, not always. Sometimes can be. CPP, I think, given its governing Acts and what it was required to do as a commercial - as an operation, perhaps you could argue for that as almost like a corporate and could be separate, properly so, and I think Robert Mianich pointed to a potential solution for that.

35

Yes?---But no, I think if you are overly siloed, if one leg doesn't know what the arm's doing, you're not going to have coordination that you need for the body.

40

Was this something you were able to address in your time in the position of CEO?---Not 100 per cent. I think we have had the evidence on the financial accountants. That was an attempt, actually, to break down a silo and perhaps wasn't as effective as it was hoped to be. I think the Directors themselves exhibited a level of competitiveness and that's been talked about but what we did do was to try to bring the agenda settlement process into play so that no report went forward without it being signed off by the other Directors. That didn't always

45

5 happen but what I wanted and what we brought in through the ELG was, any matter that came before the general agenda settlement had to have consultation with the other Directors because prior to my commencement, agenda papers would come forward and the other Directors hadn't even seen it in generation. So at least we got to a place where there was visibility. Did it always work? No, but it was again - I think you used the term - a work in progress. As we have heard today, there were other works in progress.

10 In your position as a Director, did you at times prefer this siloed effect?---No, not as a Director. In fact, I tried to integrate with other - before the commencement of Gary Stevenson and then immediately thereafter we had a different structure and it was quite siloed and I attempted, because I had a Design and Planning Directorate that needed to integrate with a Construction Directorate to execute projects, I wanted better collaboration and coordination and I pushed for that as a Director.

15 I just want to take you to some evidence from Mr Nicolaou about this aspect of the siloed effect. He gave some evidence about the City of Perth Parking which you've already addressed but I will just go to page 30, it would be, sir, from the transcript of 7 October 2019 regarding Mr Nicolaou. He was asked this by the
20 Commissioner, and this is in the context of separation between the Directorates:

25 *Who would you regard as the appropriate person to ensure that kind of situation didn't prevail in the management of the City?---Ultimately, with any organisation, it's the CEO, it's the Board, it's the Chief Financial Officer and it's the Executive Team more broadly that need to act collegiately and appropriately, challenge each other to ensure that the best outcomes are delivered from a whole of City point of view, and we weren't able to test that but from some of our observations through some of the information that was presented to us, there did
30 seem to be some dysfunction from that point of view.*

35 Firstly, would you disagree with those persons he identified to ensure that this kind of situation, that is the separation between Directorates, did not occur?---Well appropriate separations, I suppose.

Yes?---Appropriate integration would be the job ultimately, and responsibility of the CEO, that's where the buck stops. However, obviously it's a team effort across the entire organisation, from the streets guys to - the outside workforce to the top.

40 And he identified "some dysfunction" from that point of view, although he did point out that he wasn't able to test that but from the observations that he made, there was some dysfunction?---Yes, I'm not sure to which specific examples he's referring so it's a bit difficult to comment, but my observation - - -

45 Yes, was there some dysfunction?---Some argument, some strenuous argument, yes, and at times dissent, but I wouldn't say that in my view it was dysfunction.

Another area I want to go to with respect to Mr Nicolaou's evidence, and it's best if we have a look at the summary of his report that he prepared that we have seen on the screens over the last couple of days. Madam Associate, could we go to 3.1494, please. Mr Mileham, I want to draw your attention to the second column there with respect to the City's KPIs. It has been read out and looked at previously but I would like you, if you could, please, to just have a read of those dot points there?---Yes. Yes.

Would you agree with the remarks he makes there, specifically, "There was a number of limitations with the suite of KPIs which limited their effectiveness as a performance monitoring tool"?---I would suggest every set of KPIs has limits and I would say ours were in development. They had come from virtually zero through a mid level. Yes, we had some KPIs developed from the corporate planning documentation and processes.

Was there room for improvement then?---Yes, absolutely.

And that last point that's emphasised or emboldened, the last three lines:

This supports ACIL Allen's assessment that the City of Perth's KPIs did not have an adequate focus on efficiency from a financial governance perspective.

?---Yes, that's a qualified - I would qualify my comment on that by saying that I don't know - he refers above that to the City of Melbourne and the City of Sydney. We actually looked at City of Melbourne's KPIs and if you look at some of theirs, for example, there are a number of artists supported by the City of Melbourne, so that's a KPI and a performance indicator. So I guess you would say we were segueing from zero through a series of, I call easily measurable KPIs, and a comment was made that we had community survey results. I think the comment though that's cogent that's the one about, the City currently has in place indicators that relate to the financial performance, a subset of financial indicators. Those financial indicators are there for a purpose and they are useful, especially asset consumption - well, I think there's various asset ratios and so forth, or consumption ratios that give you an indication of health. So they are high level and crude, we could improve and make them more granular.

So did you believe it was a fair observation to make, that the City of Perth's KPIs did not have an adequate focus on efficiency from a financial governance perspective?---It was difficult because our efficiency measures - yes, I would say that we needed to focus more. There was not enough focus and we were headed towards more focus on efficiency indicators.

Just a number of propositions to put to you, or questions?---Yes.

This of course will involve your assessment. So the first one is, did you provide timely, accurate and appropriate information to Council and its committees for

those to manage and monitor the financial performance of the City?---Again, I believe I did so within the confines of available resources and time and in the context, notwithstanding that in my acting period, which I recall a ramp-up, we didn't change the reporting processes, so in fact we maintained the level that the previous CEO had provided in terms of information and continued to enhance it. During my acting period we had to absorb City of Subiaco, about 1,400 additional residents, boundary change, City of Perth Act, you know, decamping Heirisson Island. So we had an operational process priority in 2016. Did we give timely information? I think Council at times felt, you know, that they wanted it quicker and I can understand that but we endeavoured to do our best and provide the information that's needed for them to do their job.

[4.00 pm]

In your position as CEO, did you have sufficient financial and human resource information to monitor the performance of the City?---No, I think the financial management - sorry, the management reporting for my purposes was not sufficient i.e., not that it put the organisation at risk because we were able to deliver the full gamut of services. What I was looking for was more of a dashboard that I, as CEO, could interrogate down to the bottom line, anything, and that was not possible and I wanted that possibility and that's where we were headed. So we had sufficient management information, as I call it, a lagging indicator, P&L approach. We were getting better at predictive work and I worked very closely on Dan Richards on a sort of fortnightly basis to go through the books but for me, coming from a private sector environment where you need to be more agile, I think that we had a way to go.

As CEO, did you provide the Council, and I suppose its committees, with appropriate and sufficiently detailed Integrated Planning Framework documents to assist them, to plan, budget and manage the operations of the City?---As I've said, we maintained the level that had been previously offered and enhanced it. Was it sufficient for full judgment? Some would argue they needed more information and we endeavoured to provide more and more. The Strategic Community Plan shared a shape that we embarked upon was part of that process because we hadn't been back to the community, so we began again, if you like, with that and tried to flow that through and in the process, I would call us - it's a bit like, we had the jigsaw puzzle, we had it half built, then someone came in a room and said, "Leave the room" and holds up the jigsaw puzzle and says, "It's not done and it's that guy's fault." I figure within another two or three years we would have had the full jigsaw done. We were - accepting we still had to run a business, we had sufficient information to run it well but we could have run it better.

Mr Nicolaou made some summary points regarding this area and conveniently, it's up on the screen there and this would be the first column at 3.1494. Sir, TRIM number 25087. It's under the heading, "Governance" there on the left-hand side?---Yes.

And it's the first two dot points Mr Nicolaou states, firstly:

The trends in the City's financial performance can be traced to issues in relation to its governance.

5

Then the second point:

A review of the City's strategic planning documents found that while they fulfilled its statutory requirements under the Act, there is limited integration of these planning documents.

10

So then I asked him whether he could provide some more amplification on that comment "there was limited integration of these planning documents"?---Yes.

15

And I read this passage to Mr Mianich as well, I think this morning and I'm just going to read it to you so you can make a comment on it if you wish. Okay?---Yes.

20

Sir, this is at page 25 of Mr Nicolaou's transcript of evidence from 7 October 2019. It commences just above line 40.

COMMISSIONER: Thank you.

25

MR URQUHART: I asked him what he meant by "limited integration of strategic planning documents" and he stated this:

So what our review of all the City of Perth's planning documents was that it ticked the boxes in terms of its requirements under the Act, the Local Government Act 1995, in terms of developing an Integrated Planning and Reporting Framework as it's termed, and that gives the necessary structure around the City's strategic direction and it's certainly legislated under the Act as well.

30

35

So no criticism there but then he continues:

While that was all well structured and well presented, the documents that we were able to observe, there just didn't seem to be the integration of those planning documents between the very high level - and he cites the 10 year plan - right down to the annual budgets and then the documents that sit under that.

40

He continues:

So without these linkages, and those linkages ultimately come together through financial forecasting - over the page - without that, then they have limited value as a tool to govern the performance of the City of Perth.

45

?--Yes.

5 Would you care to make an observation about that part of his answer that seemed
to be a critical observation?--Yes. Limited is obviously not quantified so I would
say every document has limited integration with another, even if it's supposed to be
100 per cent integrated. So it's a journey from zero integration to as close to 100
per cent as one might get, albeit that you will probably never have 100 per cent
and the money you would spend to do that would be too much. So I would agree
10 that we were in a trajectory of going from zero where I don't think - I mean, the
integrated framework was a relevantly recent sort of requirement. So we had come
from a very low base and we had got ourselves up to - I can't recall what the actual
rating we got was, but it was sort of acceptable, but we were obviously aiming for
the top rung and I'd agree that we fulfilled the statutory requirements, which is an
15 absolute requirement, and that we had more work to do to integrate all the
planning documents.

Did you have sufficient information to plan for the City's future, in your view?
Again, this is when you were in the position of CEO?--Not at the time of my
20 departure, I didn't have all the information I needed to plan, say, 20 years. I had
enough for probably three to four and obviously when you go to 5, 6, 8, it gets
pretty furry and the risks get greater. So I would have liked some more trend
strategic information and we were working on that, albeit that if you predict 20
years out, you're going to get it wrong, so obviously we would have to be talking
25 about scenario planning and so forth. So did I have enough information? As I've
said, at the beginning it was P&L on an almost annualised basis. By the time I left
I think we had enough to do four years pretty confidently, and 10 relatively
confidently.

30 Did your Leadership Group have the necessary capabilities to deliver the
operations of the City?--Well, I reckon they did. Whether they brought them all
to bear at all times, I suppose that is the question.

Who was responsible for ensuring that they were brought to bear?--Ultimately as
35 CEO, I made some decisions on taking over to change the team structure, to try to
get a better team structure. At the commencement of Commissioners, I also had
some views on that but I was told I could not make any changes, so we didn't.

Who told you that?--Commissioner Lumsden, on commencement, his first
40 instruction to me was, "There shall be no hirings and no firings, especially in the
Executive."

Yes, you've already referred to that?--Yes.

45 Did your staff have the necessary capabilities to deliver on the plans of the
City?--I think they had. All staff, you're talking all 700-odd?

5 Just broadly, yes. I know it's a difficult question to ask?---Broadly. I travelled about quite a bit, especially out to the depot and to the Surveillance Centre and all the outposts, if you like, of the City and I found everyone to be committed to their job, with some exceptions. Obviously in 700-odd folks, the percentages will be that that you will get some outliers on both ends but predominantly I found that we were skewed towards capable and committed in the bell curve, if you like, and we tried to address the shortcomings through performance management and when that failed, we would let people go.

10 Again, this is another general question, but hopefully you will be able to answer it?---Yes.

I just want your views as to how you would describe the shape City was in as of 16 February 2018 when you went on leave?---Administration?

15 Well, both?---The admin was spooked, in my view.

20 By?---Just the situation that was - I had a feeling that the Administration wasn't quite sure what was going on because there were undercurrents, even in the Administration, of concern around the stability or otherwise of Council. So there was a bit of that abroad, albeit we managed I think fairly well through that process to continue to deliver services, because mowing the lawns and sweeping the streets and so forth wasn't affected by that, but the higher you got up in the organisation, I think some of the stressors of what I call an unstable environment at Council were playing out there.

25 So the shape of Council, how would you describe that then?---It wasn't a collaborative board. Some Councillors rejected that notion entirely, said that they were not there to collaborate, they were there as independent political actors, and that was problematic for me and I found it difficult as a CEO to be what some people called the shock absorber between the parties.

30 Mr Jorgensen gave some evidence today - I'm not getting it word perfect, but he described the situation at the City when he took over was that a number of problems and challenges had built up over a number of years?---Yes.

35 Do you recall his evidence to that effect?---I do recall that.

40 Would you agree with that, that there were a number of problems and challenges that had built up over a number of years?---Yes.

Where does your responsibility lie for those problems and challenges that had arisen over that timeframe?

45 MS SARACENI: Excuse me, Commissioner. Perhaps my friend could just identify, which timeframe?

MR URQUHART: The timeframe is when he was in the position of CEO, I thought I made that abundantly clear from the start of his evidence.

5 COMMISSIONER: It's clear now anyway.

MS SARACENI: Yes, it was just the evidence I was thinking of Mr Jorgensen.

COMMISSIONER: I understand.

10

WITNESS: Okay. Mr Jorgensen alluded to a number of years, I assumed he meant many.

MR URQUHART: Yes, but that did include that you were - - -?---10 plus, I would have thought. In my term, as I've said, my attempt was to address those issues and those issues were around some things that have been spoken about, KPIs. KPIs had been - what can I call them - perfunctory at best, so around KPIs and performance. Financial management, I took a P&L approach because I again have a hands-on private sector approach to that and want to be across - it's all very well to put theories, economic theories on a graph but you need to see what money's in the bank to run a business. So what was my responsibility? I saw my responsibility, as I've said, of getting us from a darkened lower basement to the ground floor where we could see where we were at, see where the lights are, where we are at and that was always my attempt. To the best of my ability, with the resources we had, with some changes that I rang - I rang some changes when I came in as CEO but I wanted to stabilise the team and get on. Was I 100 per cent successful? Certainly Council was suspended so I don't know how much influence I could have had there. I tried to influence Council in a manner that would have perhaps averted that outcome, but that didn't happen, and I also tried to put together a high performing Executive Team but at times that required some fairly draconian measures on my part.

Just bear with me for one moment, Mr Mileham. Sorry, one final question: how did the ELG function during your term as a CEO, and when I say your term, I mean the acting part as well?---Okay, from day one?

Yes?---I think there was a bit of settling in period from day one because it was a bit uncertain how long I was going to act and what the situation looked like. It took us a bit of a time to settle down, but not that long because the former CEO had set up the ELG, so it wasn't difficult just to segue that process and continue. There were tensions. From the evidence I've heard here, there were tensions I was unaware of because apparently some of the Executive were not being entirely transparent. So I can comment on what I saw and what I saw was at time tensions but I understood that everyone had the best interests of the City at heart and at times, however, I had to come in, and as a CEO obviously, make decisions and direct.

So that tensions that you were unaware of?---Yes.

5 Ought you have been aware of them?---Ought? I was aware of some of them but as I say, the depth of it, i.e., that a Director was perhaps providing information to members of Council without my knowledge, I would have liked to have known about it. I did investigate that and found that out at a later date but I was unaware at the time and should I have been? Well, yes, if I'd wanted to fully understand the character but was I able to? No, I was not.

10 Thank you, Mr Mileham. They are all the questions I have for you?---Thank you.

COMMISSIONER: Thank you, Mr Urquhart. Ms Randall, do you have an application to make?

15 MS RANDALL: No, sir, I do not.

COMMISSIONER: Thank you. Ms Saraceni?

20 MS SARACENI: No application, sir.

COMMISSIONER: Thank you. Is there any reason why Mr Mileham cannot be discharged from further attendance at this Inquiry?

25 MR URQUHART: There wouldn't be any reason. I'm sure Mr Mileham will be happy to hear that, sir.

COMMISSIONER: Thank you. In that case, Mr Mileham, I'm going to discharge you from further attendance as a witness at this Inquiry and I want to thank you for your evidence. It has been helpful?---Thank you, sir.

30 Mr Urquhart, I will now adjourn for a short time to allow the arrangements to be made for the next witness to return.

35 [4.15 pm]

MR URQUHART: Thank you, Commissioner.

WITNESS WITHDREW

40 (Short adjournment)

45

HEARING RECOMMENCED AT 4.28 PM

COMMISSIONER: Mr Beetham, you recall Mr Jorgensen?

5 MR BEETHAM: I do, sir, yes.

COMMISSIONER: Mr Jorgensen, would you please come forward and take a seat in the witness box

10 **MR Murray Allen JORGENSEN, recalled on former oath:**

COMMISSIONER: Before you start, Mr Beetham, I would just like to express my gratitude to you, Mr Jorgensen, and to all of the counsel at the Bar table for sitting a bit later today. It's very much appreciated. Thank you, Mr Beetham.

15

MR BEETHAM: Mr Jorgensen, before the break, we had just finished talking about the four pillars that are foundational, I think were your words, for good governance?---Yes.

20 And in the course of that discussion there was also a reference to, and it might get this name a little bit wrong so correct me if I do, hopefully you will know what I'm talking about, an Integrated Planning and Reporting Framework, or an Integrated Planning Model, is that right?---That's correct. Sometimes it's called Integrated Strategic Planning Reporting Framework, sometimes it's called an Integrated
25 Planning and Reporting Framework.

But you know what I'm talking about?---It's the same thing.

30 Okay. Can you tell me, and the Commissioner, what is that, what is that framework?---I think the diagram that is in the Corporate Governance Framework on page 18, from memory - - -

[4.30 pm]

35 We will bring that up for you then, Mr Jorgensen?--- - - - helps provide the context but in short, it says to have a fully integrated Strategic Plan that a Council can be held responsible to deliver, contains a number of important and integral parts, the first one being the Strategic Community Plan.

40 Could I just interrupt you? I will get Madam Associate to bring that document up on the screen there so you can talk to it, if that would assist?---Great.

Madam Associate, could we have the document at 55, please, of brief 0. This is part of the Corporate Governance Framework which is 25150.

45

COMMISSIONER: Thank you.

MR BEETHAM: Is that the document or the page you're talking about, Mr Jorgensen?---Yes, that is, sir, and there are a number of iterations of this in Local Government but basically they all say the same thing. Would you like me to continue to elaborate.

5

I would love that, please, sir?---Good governance should be informed by really understanding the community's vision and aspirations and their goals and that usually comes from very detailed community engagement. So it's not about how you deliver it but it's about what sort of City or Local Government you really want to become. That community vision and aspiration is articulated in the Community Strategic Plan or the Strategic Community Plan. That usually has a minimum of a 10 year horizon, so it's quite a long-term thing. So, for example, you want to reduce homelessness to zero within the City of Perth, would be a Strategic Community Plan aspiration. How you would do that then flows on to the next document which is the Corporate Business Plan. This Business Plan works on a four year horizon and takes the aspirational content down into, effectively, a cunning plan, if you want to call it that, to deliver the services and deliver the projects that the community desires and the Council sees as a priority. There are quite often a number of different informing documents, whether they are land use strategies or other strategies that are used in formulating that. Then underneath - -

20

Sorry, I will just interrupt you there. When you say informing that, these land use strategy plans and these other plans you're talking about, they inform, do they, the Corporate Business Plan?---Correct.

25

Which itself is a document that guides you on your way to fulfilling the aspirational strategic objectives?---Correct.

30

In the Strategic Community Plan?---That's right.

35

Thank you?---So if we take that homelessness as an example, there might be a homelessness strategy arising out of the Strategic Community Plan. That then informs the Corporate Business Plan on how the organisation will actually deliver that over the next four years and it always incorporates financials.

I see, so the effect on the City's financials?---Correct.

40

How it might be funded?---Correct.

And those types of things?---Correct.

45

I think you were then going to go on to talk about what was next in that list?---Yes. There's a number of then service plans or operational plans, sometimes Local Government call them Business Unit Plans. We have elected to focus on service at the City of Perth, so we call them a Service Plan and that is then how the individual team or teams at the City will deliver that over the next few years, and it

also picks up documents like our Asset Management Plan or our asset renewal or our Capital Works Projects Plans.

5 Are you able to say where the City's Long-Term Financial Plan sits in this suite?---Yes. If you look to the right-hand side of this document, the Long-Term Financial Plan is pulled together from all of those various inputs, but again, it has a 10 year horizon. So everything with a long-term view of 10 years but quite specifically, the Corporate Business Plan and Service Plans are more of a four year operational timeline.

10 I see. So is it the case in a sense it goes from quite a high level strategic document into more of a granular level, the lower down you get through this hierarchy?---Correct.

15 And then does that take us to the yearly budget?---That is correct. So the annual budget is then populated from all of these input documents, whereas traditionally at the City of Perth, it would be fair to say that the budgets basically came from the bottom up, which was more, this is what the service team needs. That would be aggregated and then it would be put through filters by an Executive and then ultimately Council, before being finally adopted, but not necessarily strongly
20 linked to strategy or the Long-Term Financial Plan.

Is that, as I understand your evidence, how it was previously or when you joined the City, is that what you mean?---That's my interpretation, that there was no
25 operating or embedded Integrated Strategic Planning Framework at the City.

Has that changed?---It will. It's all being developed now and April 2020 is the deadline on the completion of that under our Corporate Recovery and
30 Implementation Plan and also my personal KPIs. So I have to deliver that.

In April 2020?---By April 2020, which will mean the next budget that the City of Perth adopts will be 100 per cent in accordance with this framework, which will be a first for the City of Perth.

35 We will come to that Corporate Recovery Implementation Plan a little bit later but as part of that process and as part of your KPIs for linking these things together, is there a method in place for evaluating whether you're on track to reach that goal?---Sorry, could I just clarify, is that in relation to the Integrated Planning
40 Framework or all corporate recovery work?

No, the Integrated Planning Framework?---We do have a timeline and I, in fact, in the short break, was at a meeting with our Executive and everything is on track for April 2020.

45 COMMISSIONER: I'm afraid curiosity is going to get the better of me, Mr Jorgensen. If I look at this diagram on page 0055, towards the right-hand side I can see you've got two boxes with, "Performance reporting" in them and I'd

assumed that the positioning of those boxes between, "Resource planning", "Strategic Community Plan", "Corporate Business Plan" and the, "Year budget and operational plans" is very deliberate, and I suspect that's maybe what Mr Beetham was getting at when he was asking you questions about how you can track your progress. Could you explain to me what those two boxes mean and how they will work in your plan?---Thank you, sir. Can I just clarify, the two boxes being, "Performance reporting" and?

"Performance reporting" where it's repeated twice?---Okay, thank you. Commissioner, the top, "Performance reporting" relates to, are we delivering the key result areas or outcomes outlined in the Strategic Community Plan and there are legislative requirements that I don't recall off the top of my head, on the frequency of reporting back to the community on your progress there. So that covers that, and then the Corporate Business Plan also requires annual and more frequent reporting on progress and then the bottom, "Performance reporting" box, we have internal performance reporting and monitoring, that's also on an ongoing basis for the Service Plans and yearly budget, but they go back to Council on at least a quarterly basis and of course, as part of our transparent reporting, would be a public document as well.

Thank you very much. Mr Beetham, pardon me for the interruption.

MR BEETHAM: Not at all, sir.

Mr Jorgensen, I've asked you those questions arising out of some discussion we have had about what, in your view, is required or necessary for good governance, particularly at a Local Government level. I want to now turn to talk about some of the more specific things that you've observed and dealt with in your time as CEO at the City of Perth and I understand in preparing for today, you've prepared a written statement, that's right?---Yes.

Madam Associate, could I ask you to bring up on the screen that document that should commence at page 15, possibly 16 - 15. Mr Parkinson assures me it's at 15. Do you recognise that as the cover page to a statement you've prepared, Mr Jorgensen?---Yes.

That's dated 8 October 2018?---I think it's the 9th - sorry, the date of filing is the 9th. Yes, 8 October.

Is that your signature at the bottom of the document?---Yes, it is my signature.

Madam Associate, could we just go to the penultimate page of that document which should be at 33. Do you recognise that as the final page, absent the table of annexures, there of your statement?---Yes, I do.

When you prepared that statement, did you take care to make sure everything in it was true and correct?---To the best of my ability, yes.

Are you able to confirm to the best of your knowledge, the things contained in the statement are true and correct?---To the best of my knowledge they are 100 per cent correct.

5

Madam Associate, if we go over to the next page, please, just to the table of annexures. Sir, I can tell you the TRIM reference for this document is 25612.

COMMISSIONER: Thank you.

10

MR BEETHAM: Are they the annexures to your statement, Mr Jorgensen?---Yes, they are.

And the first annexure MAJ-1, is that the framework we were looking at a moment ago?---That is correct.

15

The framework document, I'm sorry?---That was a page in the Corporate Governance Framework, yes.

20

I will just take you to the cover page of each of the attachments and just ask you to confirm that those are or appear to be the attachments in your statement, Mr Jorgensen. Madam Associate, could we first go to page 87 of this brief, TRIM reference, sir, 25151.

25

COMMISSIONER: Thank you.

MR BEETHAM: Is that, Mr Jorgensen, what you describe in your statement as "The 2018 Performance and Capability Review - Making a Difference Report", prepared by Learning Horizons?---That is correct.

30

Madam Associate, could we please go to 125 which is 25152, sir.

COMMISSIONER: Thank you.

35

MR BEETHAM: Is that, Mr Jorgensen, the document at MAJ-3 of your statement which is described as, "Performance analysis - assessment and review" prepared by Tower Human Capital Group?---That is correct.

If we go forward now, Madam Associate, to 553 which is 25153, sir.

40

COMMISSIONER: Thank you.

MR BEETHAM: Is that the document in your statement labelled MAJ-4 which is, "Stakeholder engagement and corporate communications" document, prepared by One Degree?---Yes it is.

45

If we now go forward, Madam Associate, to 591, TRIM reference, sir, 25154.

COMMISSIONER: Thank you

[4.45 pm]

5

MR BEETHAM: Is this the "Performance analysis assessment and review report" prepared by Fifth Quadrant that's referred to in your statement?---Yes, that is correct.

10 Madam Associate, 747, please. 25155, sir.

COMMISSIONER: Thank you.

15 MR BEETHAM: Is this the City of Perth Procurement Strategy Report that's referred to in your statement, Mr Jorgensen?---Yes, it is.

857, please, Madam Associate. TRIM reference, sir, 25156.

COMMISSIONER: Thank you.

20

MR BEETHAM: Mr Jorgensen, is this the Strategic Financial Management Review - Initial Observations Report referred to as MAJ-7 in your statement?---Yes, it is.

25 Madam Associate, 877, please. You mentioned, I think, this document a little bit earlier, Mr Jorgensen, the Corporate Recovery Implementation Plan; is that that document?---Yes, it is.

30 Is that the document referred to as that document in your statement at MAJ-8?---Yes, it is, and it's the latest version. It is a living document which is constantly being updated as new issues become - we become aware of new issues but it is, at the time of writing the report and today, that's the latest version.

35 As at 15 September of this year, is that right?---Yes - sorry, although it is dated 15 September, it is still the latest version as of today.

So there's no - - ?---No changes.

40 - - - newer version with changes to it?---Correct.

Thank you, Mr Jorgensen. Madam Associate, 901. The TRIM reference, sir, for this document is 25143.

COMMISSIONER: Thank you.

45

MR BEETHAM: Is this, Mr Jorgensen, what's referred to as a CRIP Progress Report as MAJ-9 in your statement?---Yes, it is and it's the tool we are using to

monitor performance.

5 So is this the document - we will probably want to come to this document, Mr Jorgensen, but is this the document by which you monitor the progress or the performance of the City as against the Corporate Recovery Implementation Plan?---Yes.

10 And is this also a living document?---Yes. So in summary, if you look at the top, we believe we are about 24 per cent of the way through our recovery program.

15 Do you have a broad timeline in mind for how long the recovery program may take?---The full recovery - based on my experience, I would believe it's going to take years to become an overnight success. I believe we are probably talking close to three years to get our financials and all aspects of great governance in place, it could be up to two to three years but the vast majority, the solid foundations will be in place before 30 June next year.

20 Is that also one of the KPIs and sort of deadlines in the CRIP, do you know?---It wouldn't be a KPI in the CRIP. It is certainly a performance expectation of the Commissioners upon me to be well advanced, well over the halfway mark of everything before a new CEO is in place.

25 And that with a view of having a new CEO in place by the middle of next year?---That's correct.

Do I recall correctly that your term is until August of next year?---Correct, but the objective is to have a new CEO in place around about the end of the financial year or the start of the new financial year, depending on their availability.

30 Is there proposed, do you know, and if it's too early to say, please let me know, is there proposed to be between the end of financial year next year and August when you're term expires, a period of handover essentially from you to the new CEO?---Correct.

35 Madam Associate, could we now please go forward to - it's the one document I don't have a reference for, sir. We will skip that and come back to it. Could we go forward, please, to 921, please. This document, Mr Jorgensen, is titled, "The Financial Systems and Process Transformation Plan"?---Yes, it is and this is probably one of the most complex areas requiring attention.

40 We will ask you some questions about the financial position of the City and the attention required a little bit later but can you confirm that's the document at MAJ-11 of your statement?---Yes, it is.

45 Thank you very much. Madam Associate, 963, please. TRIM reference, sir, 25146.

COMMISSIONER: Thank you.

MR BEETHAM: Is this what's described, Mr Jorgensen, in your statement as MAJ-12 being, "Managing misconduct response"?---Yes, it is.

5

Can you give an overview of what this document is and what it reflects?---The Public Sector Commission conducted effectively an audit of complaints, as I understand it, at the City of Perth and there were numerous matters explored and my understanding is there were no adverse findings arising out of this review but there were some suggested improvements on how we could improve future investigations or handling of complaints in the future.

10

Was this document then the City's - was it the City's response, do you know, to the Public Sector Commission, or do you know if it's an internal document?---My understanding is this is an internal document. There would have been a separate response to the Public Sector Commission, if there was a response.

15

Madam Associate, could we just go forward a page in this document, please. You will see here as an example, I think, Mr Jorgensen, of the areas of improvement that I think you were talking about, is that what that schedule reflects?---Correct.

20

And the City's progress against those areas of improvement?---Yes.

In that far right column?---Correct.

25

Only two more documents to take you to, Mr Jorgensen. The first, Madam Associate, is at 969 which is TRIM reference 24147.

COMMISSIONER: Thank you.

30

MR BEETHAM: Do you recognise that document, Mr Jorgensen?---I do.

Is that what's described as, "Inside City, September 2019 edition", MAJ-13?---Yes, and I understand inside that document is a response to some of our handling of misconduct, which was an educational item for staff.

35

So is this something that went to staff in the City?---Yes. You would regard this as an internal staff newsletter.

40

Is this a new thing that the City's doing? Do it exist when you arrived?---My understanding is it existed before I arrived.

And this is an example, is it, of an internal communication from the Executive, is that fair?---No, it's from the Communications Team but it will pick up items from the CEO, from Executive, other initiatives that are occurring.

45

And the second to last document, Madam Associate, is at 971, which is 25148. Do

you recognise that document, Mr Jorgensen?---I do.

5 Can you tell the Commissioner what that is?---All risks at the City of Perth that are identified are managed on a similar template to this and procurement was certainly deemed as an extreme risk or a high risk at the City and this is just an example of how we try and manage the risks and maintain a Risk Register.

10 So is this then the August 2019 extract from the Strategic Risk Register at MAJ-14 of your statement?---Yes, it is.

The last document, Mr Parkinson has very helpfully given me the reference to. It's at 911, please, Madam Associate. TRIM reference, sir, 25144.

15 COMMISSIONER: Thank you.

MR BEETHAM: Is this what's described as MAJ-10 in your statement, Mr Jorgensen, "The Human Resources Improvement Plan"?---Yes.

20 Thank you for that, Mr Jorgensen. What I would like to do, Mr Jorgensen, is to take you through five topics essentially of areas within the City, your observations about those areas when you arrived and what steps have been taken in respect of them since your arrival at the City.

25 COMMISSIONER: Before you do that, would you like to tender this document?

MR BEETHAM: Sir, it forms part of brief O but, yes, for the avoidance of doubt, I would tender the statement of Mr Jorgensen with all of its 14 attachments.

30 COMMISSIONER: Thank you

#EXHIBIT MAJ1 - Witness statement of Murray Alan Jorgensen dated 9/10/2019, comprising some 34 pages and with Mr Jorgensen's signature on page 33, also attaching 14 attachments, MAJ-1 through to and including MAJ-14.

35 MR BEETHAM: Thank you, sir.

40 If I can just raise, sir, I think perhaps the reference to 34 is the Bates numbering and the document itself, just for the sake of the record, is only I think 20 pages long. It commences at Bates reference - - -

COMMISSIONER: I will correct that. So the first page is numbered 0.0015, the final page with the annexures is numbered 0.0034.

45 MR BEETHAM: I'm obliged, sir.

COMMISSIONER: Thank you for the assistance.

MR BEETHAM: So the first area I want to talk to you about, Mr Jorgensen, is your observations about the Human Resources at the City when you arrived and you deal with this at paragraph 22 of your statement but are you able to give the Commissioner, in broad terms, an overview of the state of human resources when you arrived at the City?---Clearly I've covered a lot of it in my statement and I will do the best I can to recall some of the events but probably the first major warning bell I had when I arrived there, I asked the question fairly early on in the piece, actually how many staff do we have on the payroll, and more specifically, how many approved full-time equivalent positions do we have, because the Commissioners had expressed a concern that there appeared to be a significant growth in staff numbers, despite them indicating that they, from a strategic and financial perspective, were not looking at growth in staff numbers. There was also on record, from previous Elected Members before the Commissioners, effectively a freeze on staffing levels, as I understood. So I wanted to understand that. The best I could get initially was that there was around about 750 staff, give or take 10 or 20, which I found an unacceptable answer at that point in time because, give or take 10 or 20 is actually give or take several millions of dollars or not.

Is that in salary and salary on-costs?---In salary and the like. So I made the initial enquiries and found that there were multiple contributing factors. One, different staff in different areas were using different terminology and different definitions, whether it was an approved position, whether it was a FTE, whether it was actual head count, because they all had different meanings. It seemed that the numbers in the financial systems did not correlate to the numbers in the human resource management system.

[5.00 pm]

These were disparate systems?---Two disparate systems that didn't accurately talk to each other. So I found that unacceptable and asked a person working for me to actually get to the bottom of it and find a solution. Working with different parties within the organisation, it took four months to actually get a final answer to the figure and when I got an answer to the figure, it was - there were 810 approved positions and approximately 750 staff that were on the payroll at that particular time, because there were a number of vacancies not filled.

Is it the vacancies not filled that account for the difference between 810 and the 750?---Yes.

Thank you?---But intuitively, at that stage I would have expected the figure to possibly have been less than 700 because there had been a freeze in place for quite some time but the numbers had grown - I can't recall the exact amount but it was in the mid to high 500s, it had grown from that to 810 and that was my first concern with HR.

Do you have an understanding now or did you gain an understanding as to what the core problem was that led to the inability of the City to provide that FTE

number to you in a shorter period of time than four months? Did it have something to do with the disparate systems or were there some other underlying issues?---Disparate systems but it had never been a priority to have accurate integrated human resource or financial numbers in relation to that. So that system had been in place for a number of years, as I understood it. So it wasn't the last month or two before I got there, but it became a problem. It had been a long-standing problem. I think the other major observation I had was one of concern that the 2015 restructure meant quite an anomaly had occurred in the number of people on contracts of employment that had, I would say, very generous termination or severance payment clauses. In Local Government it would be fair to say the CEO is quite often on a termination clause for any reason, with a separation of up to 12 months because they are 100 per cent accountable for everything and if the Council wants to change direction quickly, they need to be able to do that, but as you go down the different levels, Directors are often on three, or a maximum of six months severance pay and down to managers, usually about three months. I discovered that the CEO, five Directors, 31 managers and 10 other staff were all on contracts of employment that had a 12 month severance clause in it, which meant that it was extremely difficult to restructure or make any changes without incurring significant financial penalty to the City.

Do I take it from your evidence that you've just given, that was an unusual scenario for you to face, having all of these people with these large or lengthier periods for which they will be remunerated if they are terminated, is that right?---Well, it makes it very difficult to sometimes effect the change that's necessary and in an efficient and economic way.

Since joining the City and observing some of these issues with human resources, have any steps been taken you can recall to improve the Human Resources area, and I will draw your attention in particular to the Human Resources Improvement Plan we saw up on the screen a moment ago? Is there anything you can say in that space about what's been happening?---Well, a very simple thing, again it surprised me in the current era of technology that until about the middle of this year, we moved from paper timesheets to electronic timesheets. For a large employee base, that's an initiative that has taken place but I was surprised it hadn't occurred earlier.

Are you aware of any initiatives that have taken place to improve the tracking of FTEs?---We now have established a proper correlation and integrated system, so it is now possible to have live data.

So if you wanted to find out how many FTEs are in the City now, how long would that take?---Within the day I could ask somebody to have that information. At this stage, I don't personally track it on a day to day basis, but I could have access to it.

So if you wanted to, you could have access?---Press the button.

Have any steps been taken, do you know, in relation to recalibrating these penalty provisions or these termination payment provisions?---Yes, there has. It's only

recently been completed. You may be aware through the media, I recently reduced the number of managers from 31 managers to 16 managers and the 16 managers that remained on have all agreed and signed on to new contracts which have a three month termination clause. So at the moment, at the City, there would be only the 10 non-Executive, non-manager positions that still have those contract clauses.

Is that essentially a legacy issue?---It's a legacy issue and in my opinion, it's not a priority or it's not an area where performance is failing.

With respect to those 10 people?---Correct.

Does it follow then that there's risk that those clauses will be engaged so as to expose the City to those payments, is that what you mean?---That's correct. There's little likelihood or risk there.

You mentioned just then in that passage of evidence that you reduced the number of managers from 31 to 16. Is that a part of a strategy to control employment numbers overall?---It's a combination of both. The original restructure that occurred in, I think, 2015, significantly increased operating costs. It's pretty simple, 15 managers cost X, the 31 managers cost a lot more than that. So it was a long-term financial decision but also, I, in my opinion and certainly in the opinion of a lot of the staff that were involved, the creation of more teams than was actually necessary meant that quite often the silos were amplified and the number of teams that needed to be consulted on every matter, again contributed to inefficiency, whereas the larger, more dynamic and more flexible teams were able to move resources according to priorities. So from my perspective, it was fiscal and efficiency in service delivery.

You mentioned the reference to the siloed nature being compounded in some of those circumstances. Is there a model that's been adopted at the City now to reduce the siloed nature of the City's work?---Yes, sir. It started with trying to even break down the concept of Directorates or Departments by just using the word "alliances" and the word, "collaboration". Are we there yet? Absolutely not because we have still only got two of our new general managers that have started - two have yet to start.

Can I ask you, do you know when they are approximately starting?---Yes, the next one is starting on 21 October and that is the Director of - sorry, the General Manager of Corporate Services and the General Manager of Planning and Economic Development starts on 4 November.

Is that a step in the pathway to setting up these alliance structures you're talking about?---Yes, and it's a significant step in the recovery because effectively for a big portion of 2019, we have been operating with reduced bench strength. With the vacancies, with the departure of Directors, then the recruitment and the time delays before the General start, we have been operating with a lot of internal acting

positions.

5 Can you - sorry?---I was just going to say, full bench strength for the first time, November 2019 and I would expect increased traction and certainly increased momentum on reform heading into early 2020.

10 Over this period, are you going to continue having - I call them Town Hall meetings, I'm sorry, I forget what you described them as earlier today - are you going having these type of feedback sessions with the organisation?---Absolutely. I think it's critical that they hear first hand rather than - during a period of change there's a lot of rumours that perpetuate in an organisation, so they hear it first hand from me.

15 I'm about to move off human resources in a moment, Mr Jorgensen, to two things. The first is, one of the documents I took you to, I called the Tower Report which is MAJ-3 at TRIM 25152, do you know the document I'm talking about? It's described in your statement as the "Performance Analysis - Assessment and Review HR Prepared By Tower Human Capital Group"?---Yes, I am familiar with that.

20 Has that document informed either your views on issues, if I can use that somewhat neutral term, with HR at the City and any strategies to improve the City's performance in that area?---That's certainly a significant informing document. It's not the only advice I take. I make my own observations, I talk to the staff. So some of the matters that were raised in that report have changed because some of the personnel have changed, but some of the core issues remain the same. For example, the report says some of the processes are adequate but the confidence in the processes by the staff is still relatively low. Our objective is to increase that confidence.

30 Without going through the detail of the document, does the Human Resources Improvement Plan that I brought up on the screen a little while ago, is that one of the documents that helps guides the City rebuilding that confidence?---It does but we will need to - it's probably an area that I could say that we haven't had the traction that I would have liked. We have had - prior to me starting I think there's been three HR Managers in a fairly short period of time and with the new General Manager of Corporate Services starting with a major focus on his KPIs being to help reform our organisational culture and Human Resources performance, a lot of that will not start until we get the new HR Manager on board, which I'm hoping will be before the end of this calendar year. So traction has been slowed down due to change of personnel, but I hope the momentum will increase significantly leading into 2020

45 [5.15 pm]

And that momentum will build, as I understand your evidence, from the appointment or the commencement of the General Manager and the Human

Resources Manager below the General Manager?---Correct, but the Human Resource Improvement Plan, with any modifications, will be the driving force.

5 Thank you, Mr Jorgensen. Can I now ask you some questions about procurement?---Yes.

10 The Inquiry's heard quite a bit of evidence over the course of its public hearings, including earlier today, about the difficulties posed by what's been described as the decentralised model of procurement within the City. When you joined the City, is that reflective of what you saw?---Yes. It's reflective of it and as well as that, from very early on in the piece I had grave concerns every time I was asked to sign-off a tender or a contract. I didn't have the confidence in the process or, at times, the ability of the Evaluation Panels or process to actually give me the confidence when I was signing off on contracts that I hadn't been involved in.

15 Are you able to amplify the reasons why you didn't have that confidence?---I an example would be inconsistent Selection Criteria on tender evaluations. On some tenders you might have a price criteria which only represented 10 per cent of the evaluation criteria, in other cases it might be 30 or 40 per cent, whereas I treat the City of Perth's money like my money and I want value for money. So I see a great emphasis on price, provided you can ensure there is quality and reliability of service or contract delivery. So there were times where tenders had been assessed in accordance with the criteria of, say, 10 per cent price but there was such a marginal difference in the overall points on the assessment out of 100 per cent, but there was a significant price difference and I know in my case which one I would have bought.

25 Is it the lower priced one?---The lower priced one but the process didn't lead you to the lowest priced one.

30 So as I understand, is that because the price was weighted at a certain percentage?---Loaded.

35 As part of a qualitative criteria in the tender, is that right?---Correct.

We have heard also some evidence during in course of the hearings about a merged centralised procurement?---Yes.

40 And there's been a lot of reference to what seems to be a very well regarded procurement lead who left the City?---Yes.

45 Are you able to say anything about those topics?---Yes. Darren Turner was the procurement lead, well recognised in Local Government, had a major involvement of the WALGA, Western Australia Local Government Association, tender and procurement services. He came on board, was highly regarded internally and to this day is still highly regarded as having started to steer the ship in the right direction, but I had heard he left in frustration at the lack of traction and lack of

Executive support for his initiatives and when we were continuing to try and get traction with procurement, and it wasn't happening, I made a call to Darren to find out if that was the case, did he leave because of the lack of support for his initiatives, and the answer was yes, and I said, "If you had that support and
5 Executive support from myself and others, would you come back and finish the project", and the answer was yes. He wanted to do that and since then we have recruited him back and he has been really welcomed back into the organisation because all key personnel believe Darren will be the one who will deliver what we need.

10

When you say key personnel, are you talking there, yourself, the Executive level, to the extent there is an Executive level at the moment, and do you include the managers of various areas, if they are still called that?---Yes.

15 Is Mr Turner - the procurement strategy that I showed you just the cover page of, is he connected with that procurement strategy in any way?---He was the original author.

20 Is he now implementing the strategy contained in that document?---Yes, that's correct.

Is part of that strategy centralising procurement?---Yes, it is.

25 Are you able to tell the Commission, if you can, and it may be a question for Mr Turner, how far through the strategy he is or how far advanced through centralisation the City is now?---It would be fair to say, not very far because he only recently returned. Without checking my records, I think it would be four to six weeks, maximum, since his return to work at the City.

30 So very recent return?---So he's only - it's very recent and one of the reasons I was concerned is we weren't making the progress that I needed to have confidence in the documents I was signing.

35 Has Mr Turner indicated to you a timeframe or an aspirational timeframe for when key facets of the procurement strategy will be in place?---There are some timelines but what I've done with Darren, or Mr Turner's advice, is we have adopted a very short-term risk mitigation strategy and that is, all key or major purchases or acquisitions will go through the WALGA Tendering Service, the independent
40 WALGA Tendering Service. While we use their skills and services to minimise risk, we will also be building our internal capability and have skills and transfer of knowledge, so I'm imagining certainly within six months, we will be well on the way to having robust systems.

45 Do you imagine that within about six months you may be able to pull back that service from WALGA and do it in-house, is that right?---Approximately six months.

I'm not going to hold you to the timeframe?---Worse case scenario, to the end of this financial year.

5 Is there anything else you wanted to say or can say about procurement at the City that you think the Inquiry needs to know about?---I just think there's significant opportunities for savings and better procurement and ultimately better delivery of services.

10 Are these the things that Mr Turner is pursuing or has been directed to pursue?---Yes.

Does Mr Turner - who does he report to at the moment, do you know? Is it direct to you?---No. He reports to the project Director of Strategic Finance, the author of - - -

15 Is that Mr Kent?---Mr Kent.

Is he the author, is he, of the Strategic Financial Management Review document, The First 30 Days document?---Mm hmm, and the Financial Transformation Plan.

20 Yes, thank you. Is there anything you would like to say about that?---No, thank you.

25 That's a good segue then to financial management, Mr Jorgensen. You said when I showed you one of the documents on the screen that it's a complex area. Are you able to give an overview of your sense or view of the financial position of the City and its financial management after you arrived at the City?---Yes. I think clearly first impressions were that the City had passed regular audit requirements which probably meant, in the main, that there were no major misappropriations or statutory shortcomings but my first observation was that the financial system
30 wasn't delivering the service to its internal customers that was needed. So you had a centralised financial services in Corporate Services but because it wasn't delivering what the Directorates in those days were requiring, they also had their own financial accountants and staff that would then manually manipulate,
35 extrapolate or amend the information to put it in a format that was useful to the managers in those Directorates. So as an example, if I wanted to know, well, what does the Supreme Court Gardens cost us in annual maintenance a year, it would be extremely difficult to find that out because the whole cost structure and allocation systems and charts of account.

40 That would not all be kept centrally in one location?---It was kept in one location but the breakdown and the way costings worked did not always mean that it was easy for the managers to manage their costs because the information that was provided may not have met their needs. What would be an example? If materials
45 and contractors come through as a one line figure, if you've got heaps of contractors and heaps of different materials being used on your site, you didn't necessarily know what was included in that figure without going into a lot of

detail.

Sorry, I don't mean to cut you off there but just so I can try to understand that, is it that the data was there but the way it was reported from the systems meant it was difficult to utilise?---By the managers responsible, or the Directorates responsible. So they would have accountants that then re-interpreted the information or collate other information to depth it. This became more obvious as time went on and you'll notice it in the financial report of Mr Kent. It highlights the utilisation of our financial systems. So we had a core financial system called Finance One which was a TechOne suite of financial products, but it was only used to - my recollection of the figure is 12 per cent of its capacity, system capacity, so quite under-utilised but there were multiple bolted on, what you would call best of breed, but unintegrated systems that also dealt with the information. I haven't tabled in my report, but I'd love to table and I will send it to you, a diagram of the systems and it's called the spaghetti diagram at the City of Perth and it shows you -

I take it that's not a complimentary label?---It's not a complimentary diagram. It shows the complexity and the interdependencies of multiple City systems, but more importantly, the number of manual interventions and manual reconciliations that had to take place as you moved data from one system to another.

When you say manual, do you mean somebody physically manipulates the data from one form to another in order for it to have, or to fill purpose that it's ultimately required for?---Yes.

There's a human interaction?---Human interaction. So it was either a mechanical extraction - sorry, a manual extraction and a manual upload into another system, or it was a manual reconciliation between systems that needed to occur. The report that I mentioned does cover the utilisation - - -

This is Mr Kent's report?---Yes. I think that's well worth having a look at that document

[5.30 pm]

This issue with interdependency of systems and the manual interfacing that was required, or is required, is that in your view, the most significant issue with the financial management and the financial systems at the City or are there other significant issues that you noticed?---That's a significant one because I can recall shortly after starting at the City of Perth one of the major financial documents presented to the Commissioners that, as CEO being 100 per cent responsible for everything, I was embarrassed that a financial statement was presented to the Commissioners but because it had been manually prepared, which in this day and age is interesting, so it was manually prepared but the brackets on a \$55 million figure were excluded so when they were manually added up it meant that there was a \$110 million difference in the real - - -

I see. So a debit was recorded as a credit, was it, or something like that and you'd add the two, you'd get the 110?---Yes. So the confidence level in the manual reporting certainly wasn't high at the Commissioner or at my level.

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Are you aware, other than that example, of other examples of where manual intervention has been the cause of any issues with financial reporting, financial management?---Off the top of my head, no, but I feel sure I could find them.

10 Mr Kent prepared that financial management report, The First 30 Days document, that's right?---Yes.

And also the Financial Systems and Process Transformation Plan?---Yes.

15 Is Mr Kent responsible for following the outline in that Financial Systems and Process Transformation Plan?---Yes.

20 What is the purpose - can you talk to the purpose of that plan and what the aspirations of the City are in respect of it?---I don't think there's any dispute within the City by anyone that the financial systems need upgrading and we need better integrity of data and better financial management systems. I think that's a unanimous call from everyone. So it was more about how we went about it and what we did to fix it. Do we stay with the existing system and get it right, or do we go to the market, look for other systems? Do we outsource? There were a number of things, so the plan prepared by Mr Kent was the best possible approach for the City of Perth at this particular point in time, in his and my opinion.

25 And what is that approach? Can you elaborate on that what that approach is?---Well, in this particular case we are sticking with the system that other local authorities use, the TechOne, Finance One system that is currently used, as we understand, to about 12 per cent capacity. So our objective is to remove a lot of the bolt-on systems and work with getting the current system right but more importantly, all the work flows, process systems and proper training of people to use those systems.

35

So in respect of the system, so this is the system that's currently in place with all the bolt-ones to it?---Yes.

40 Is the idea to increase its utilisation from 12 per cent to a higher figure?---Yes.

And in increasing it to that higher figure, start to remove the bolt-ones?---Yes, and instead of having multiple sources of truth, effectively have one integrated source of truth.

45 Does that system have a role in - I'm going back to HR a little here - being connected with staff costs and staff numbers?---We have a separate Human Resource Information System or HRIS. That is the Human Resource Management

System but I would have to actually check whether - my understanding is there is a compatibility there but I wouldn't want that taken as fact.

Your understanding is with that caveat?---Yes.

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That there is an inter-operability between the HRIS and the TechOne product?---Yes.

The Directorate accountants you spoke of?---Yes.

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As I understand it, this is sort of a proliferation of the same role but with different Directorates, is that right?---That would be one way to put it, yes, or a reasonable way to put it.

15 Are they essentially filling the word of - I think the word you might have used was, to translate the information so that the managers can use the information for whatever purpose the managers in the Directorate wanted to use it for, is that right?---That would be an example but there were Finance officers as well as the Directorate accountants that worked in the Directorates and they might be
20 processing invoices or orders requisitions but since that statement was made - sorry, that goes back to my initial observations but more recently in the last month, we have pulled all of our Directorate accountants out of the Directorates and put them into a special project team, working with Mr Kent to actually drive financial transformation of the City of Perth. So it's working on the system rather than in
25 the system. So we have taken all those resources and they are going to focus on getting the system right and the future right so that then, over time, the number of staff in that area should be able to be reduced.

30 In the interim, is somebody filling that role that includes the translation role that I was talking about?---Yes. They can do that but what we are saying is that there's - we are going to place less priority on translating that information in the short-term.

I see, so their core business is dealing with the system?---And getting it right and that will keep the central financial system there and manage it more by exception,
35 look at - when we need to drill down on something, we will but instead of drilling down on everything on all occasions, we are going to take that short-term step back from that, fix the system and then have accurate information at our fingertips.

40 COMMISSIONER: So is one of the advantages of bringing all these Directorate accountants into the one team under Mr Kent that whatever retained knowledge they have about how their different Directorates used to manipulate and use information, is now brought into one repository so that the system which will then be used, Finance One, will be structured in a way that it will be able to assist one Directorate or another Directorate in the ways that those accountants used to do in
45 their own Directorates?---I couldn't have put that better myself, sir. That's exactly what is occurring. The field experience, if you want to call it, is being centralised to ensure that the system actually delivers what the field needs.

And your confirmation of that suggests to me that one of the problems that may have existed with the previously decentralised system is that you would have accountants in the different Directorates with different understandings or
5 knowledge, or both, which an accountant in another Directorate would not know about, and so there would always then, it seems to me anyway, be the risk that information that was valuable to perhaps more than one Directorate, would not be shared across the Directorates?---That is correct, sir, and not only that, the manuals, and that's reported in Mr Kent's report, the manuals on how to use the
10 system, for new staff coming on board, said one thing but the corporate knowledge had moved way beyond that and it wasn't shared. In addition, if I could add, it has been a great initiative at the City of Perth that's re-engaged all the staff in the Finance Directorates. They feel as though they are actually going to be making traction and making progress and getting the City better and reinvigorated. The
15 collaboration has been second to none, whereas in the past it was business as usual, grinding it out, dissatisfied with the system and frustrated, and it contributed to the competition and tensions between Directorates and the central financial system.

20 I'm sure you've already thought long and hard about this, Mr Jorgensen, but the one thing that is troubling me at the moment is, how did it get to this state where you have this, as you describe it, spaghetti system of different financial systems in different Directorates? I appreciate that in unraveling that, it's probably described accurately as a job and a half?---M'mm.

25 But how did it get there in the first place? Did you look into that or wasn't it worth your while?---How did it get like that? I would say the reverse of, it takes years to become an overnight success, it can also take years to create, by incremental decisions, and each decision on its own may not appear to be significant, but
30 collectively they are. So my answer to that in particular would be, if you have an information management governance system, something that's structured, how you're going to manage your software, then it could be avoided, but at the moment - not at the moment but previously Directorates and teams could buy things and effectively bolt it on - an over-simplification but - - -

35 No, I understand your point. Would you expect someone in charge of the finances of the City of Perth, knowing that this system was in existence with its disparate parts, to be thinking long and hard about how that should be fixed?---Not being there in the period 2015-18, I genuinely don't understand the thinking but it would
40 be fair to say that, I'm just surprised it didn't receive higher priority.

Thank you, Mr Jorgensen. I'm sorry for the interruption, Mr Beetham.

45 MR BEETHAM: Not at all, sir.

COMMISSIONERS: Mr Beetham, I see you looking at the clock. I'm told that we have the transcribers until 6 pm; does that assist?

MR BEETHAM: All information assists, sir.

COMMISSIONER: That's the point Mr Jorgensen was just making.

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MR BEETHAM: Mr Jorgensen, I'm proposing to move off the topic of finance unless there's anything in particular that you wanted to speak about in respect of that topic, or bring to the Commission's attention?---Probably one final point is the finance from my perspective is a critical and integral part of the Strategic Planning and Integrated Reporting Planning Framework. Yes, there was some planning documents in place but not with reliable, long-term financial projections on them that were robust. So one of the challenges we have got at the moment, which we are definitely working on the solution, is the integration of finances into the strategic planning. So one thing is to have aspirations, the other thing, like your own personal budget, you've got to have the ability to pay for it and we are bringing that together at the moment.

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Thank you, Mr Jorgensen. In your statement under the heading of, "Managing risk to limit misconduct", you make an observation, and this is at paragraph 29.4:

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Comments were made by staff that Executive leadership had poor culture and that Directorates had their own culture which varies within the City of Perth.

This is at the time of you joining the City. Does that reflect a view you held or came to hold during your time at the start of your tenure at the City of Perth?---That is a view I would hold and I think it would have been also a view held by the Executive themselves as individuals. I think if each of them were interviewed separately, they would say there was a level of competition, regular unhealthy tensions and I've even heard them using the words, throwing each other under the bus

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[5.45 pm]

When you say you've heard, is this something you've overheard yourself or somebody said to you?---The Executive have mentioned that to me and it was certainly a concern they had of the functioning of the Executive when I got there. It has dissipated now. It's certainly a collaborative Executive at the moment, a respectful Executive.

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Do you have any reason to think that when the next two General Managers come on board and form a larger Executive, that there's any risk of back-sliding amongst that group?---No, not at all. We went through a very comprehensive recruitment program and the professional values and the professional records of the individuals are long-standing and I have a high degree of confidence that they are collaborative by nature, community and customer focused by nature.

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Did you form any views about the nature and culture of the Executive when you joined, as to whether or not that had any flow-on effects for the City of Perth more generally, whether it affected the efficiency of the City or how it operated? I'm trying to phrase that in a broad way. Did you have any views about that?---Yes. I think quite clearly again from the feedback Executives were giving me about fellow Executives, that there was a competitive tension there and in some cases, concerns at the lack of collaboration, the lack of support for each other and certainly I think individually each Executive would have liked to have seen it improved.

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Their relationship between each of the others?---M'mm.

Did any of the Executive give you any explanation as to why or how it had got to the point it had apparently got to?---Not specifically that I recall, and I didn't focus on that a lot. Rather than focus on the negative, I was trying to create an environment where they could succeed, give them the opportunity to perform and raise the standards, but that didn't happen overnight.

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COMMISSIONER: Just on that and I'm sorry for interrupting you again, Mr Beetham.

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MR BEETHAM: Not at all, sir.

COMMISSIONER: This is something that's been exercising my mind for a while. What do you see as the role of the Chief Executive Officer in ensuring that the Executive works collaboratively rather than against each other?---I see it as an absolute fundamental requirement of a CEO's role and responsibility to ensure they collaborate and often that is done through Executive workshops where you will work up Executive Charters and Codes of Conduct, for example, where you have joint ownership of the required behaviours and the way you will work as a team, effectively the way you will operate, and much of the work - a lot of the consulting work I did was often working with Executives in that environment and they found it very empowering that once the Executive had agreed on a standard of behaviours and the way they would interact with each other, you then had the imprimatur to call the non-behaviour, whereas we all may describe values, e.g. honesty or respect for each other, as being important values but I think as human beings I've learned we all have different interpretations of what behaviours demonstrate those values. So an Executive Charter normally would be, okay, so if we are going to respect each other, what are the acceptable behaviours or expected behaviours that demonstrate that, and what are the unacceptable behaviours that we will call. When that's clear, it's very easy to, as an individual Executive member, to say, "Excuse me, Mr CEO, that's not in accordance with our Executive Charter and we hold each other accountable to that." So I see it as a CEO's role. We have a draft Executive Charter and Code of Conduct now in place and I say draft because I've prepared it with the existing Executive, waiting for the last two to come on board and then we will revisit it and ensure everyone owns it and then that will be the new modus operandi.

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Thank you very much.

MR BEETHAM: I have more than nine minutes, sir, for Mr Jorgensen.

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COMMISSIONER: All right.

MR BEETHAM: I am, however, going to move to a new topic, so I wonder whether, given I'm not going to get through that topic, it might be an appropriate time for the Inquiry to adjourn.

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COMMISSIONER: Yes. How much longer do you think you might be with Mr Jorgensen?

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MR BEETHAM: No more than half an hour, I would think, sir.

COMMISSIONER: Mr Jorgensen, I'm afraid we will not be able to finish tonight because the transcribers will knock off shortly?---That's fine.

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Which is, of course, entirely appropriate for them to do. Would you be able to return tomorrow morning at 10 am?---Yes.

I have no doubt that we will be able to complete your evidence in that time, even if there are applications to examine you by other counsel. What I will do then shortly, Mr Beetham, is adjourn the Inquiry until 10 am tomorrow morning but before I do that, I want to express my thanks once again to you, Mr Jorgensen, for accommodating the Inquiry by attending late and giving evidence until well into the evening. I also want to thank all counsel and the Inquiry's officers, including my Associate and investigators at the Bar table and elsewhere, for their assistance and accommodation in allowing the Inquiry to sit late this evening.

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Are there any housekeeping matters before I rise?

MR BEETHAM: No, sir.

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COMMISSIONER: Thank you. I will adjourn until 10 am tomorrow morning.

WITNESS WITHDREW

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**AT 5.53 PM THE MATTER WAS ADJOURNED
UNTIL THURSDAY, 10 OCTOBER 2019**

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